IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

MRS. SAMUEL E. ALLGOOD, INDIVIDUALLY AND AS INDEPENDENT EXECUTRIX OF THE ESTATE OF SAMUEL E. ALLGOOD, MARCUS ALLGOOD AND MALCOLM ALLGOOD, Plaintiffs,	*	
VS	*	CA NO. H-91-0158
R.J. REYNOLDS TOBACCO COMPANY, THE AMERICAN TOBACCO COMPANY, THE TOBACCO INSTITUTE, INC., AND THE COUNCIL FOR TOBACCO RESEARCH-U.S.A., INC. Defendants.	*	

DEPOSITION OF JOHN GRABOWSKI, Ph.D.

On February 24-25, 1994, the oral deposition of the Witness in the above-styled cause was taken at the instance of the Defendant, The American Tobacco Company, in the offices of Cruse, Scott, Henderson & Allen, L.L.P.; 1850 Two Houston Center; 909 Fannin Street; Houston, Texas, pursuant to Stipulations of Counsel contained herein.

COPY

http://legacy.library.ucsf.edu/tid/dfp37a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

1 Those persons present were as follows:

2

3 MR. ALDEN D. (DOUG) HOLFORD
7515 Kensico
4 Houston, Texas 77036

5 Counsel for Plaintiffs,
MRS. SAMUEL E. ALLGOOD,
6 INDIVIDUALLY AND AS
INDEPENDENT EXECUTRIX OF THE
7 ESTATE OF SAMUEL E. ALLGOOD,
MARCUS ALLGOOD AND MALCOLM
8 ALLGOOD

9

10 MR. BRUCE G. SHEFFLER
MR. THOMAS E. RILEY
11 Chadbourne & Parke
30 Rockefeller Plaza
12 New York, New York 10112

13 MR. SAM W. CRUSE, JR.
Cruse, Scott, Henderson & Allen, L.L.P.
14 1850 Two Houston Center
909 Fannin Street
15 Houston, Texas 77010

16 Counsel for Defendant,
THE AMERICAN TOBACCO COMPANY
17

18

MR. JOSEPH M. DAVID, JR.
19 MR. PETER J. BIERSTEKER
Jones, Day, Reavis & Pogue
20 Metropolitan Square
1450 G Street, N.W.
21 Washington, D.C. 20005

22 Counsel for Defendant,
R.J. REYNOLDS TOBACCO COMPANY
23

24

25

http://legacy.library.ucsf.edu/tid/dfp37a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

MR. JAMES S.E. COWAN
Bracewell & Patterson, L.L.P.
South Tower Pennzoil Place
711 Louisiana Street, Suite 2900
Houston, Texas 77002

Counsel for Defendant,
THE COUNCIL FOR TOBACCO
RESEARCH-U.S.A., INC.

MS. VICKI J. DAWSON, CSR
Charlotte Smith Reporting, Inc.
3730 Kirby Drive, Suite 909
Houston, Texas 77098

http://legacy.library.ucsf.edu/tid/dfr07a00/pdf
Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

EXAMINATION INDEX

DEPOSITION OF JOHN GRABOWSKI, Ph.D.

February 24-25, 1994

	Page
EXAMINATION BY MR. SHEFFLER	8
EXAMINATION BY MR. DAVID	332
EXAMINATION BY MR. COWAN	395
EXAMINATION BY MR. HOLFORD	402
RE-EXAMINATION BY MR. DAVID	428

http://legacy.library.ucsf.edu/ad/dfr07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

EXHIBIT INDEX

DEPOSITION OF JOHN GRABOWSKI, Ph.D.

February 24-25, 1994

Exhibit No.	Description	Page
1A	Subpoena And Notice Of Oral Deposition With Subpoena Duces Tecum	36
1B	Fax Cover Sheet From Mr. Holford To Dr. Grabowski With Notice Of Deposition Attached	36
1C	Fax Cover Sheet From Mr. Cruse To Dr. Grabowski With Notice Of Deposition Attached	36
2	3-17-93 Letter From Mr. Holford To Dr. Grabowski	61
3	11-8-93 Letter From Dr. Grabowski To Mr. Holford	63
4	3-1-93 Letter From Dr. Grabowski To Mr. Holford	66
5	Curriculum Vitae	85
6	Two Cover Pages With Abstracts	159
7	"Psychoactive Substance Use Disorders "	161
8	Declaration Of John Grabowski, Ph.D. In Opposition To Defendants' Motions For Summary Judgment	169
9	Excerpt From 1964 Surgeon's General Report	386
10	Copies of Pages 1, 35, 36, 37, 38 Of The Deposition Of Luther B. Allgood	408

http://legacy.library.ucsf.edu/ad/dfp37a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

S T I P U L A T I O N S

IT IS STIPULATED AND AGREED BY COUNSEL FOR THE PARTIES HERETO:

That the deposition of the Witness named herein is taken pursuant to Notice and Subpoena;

That the Witness may sign said deposition before any duly authorized and acting Notary Public for the appropriate area in which signature is obtained;

That this deposition, or any part thereof, when so taken may be used upon the trial of this cause with the same force and effect as if the Witness were present in court and testifying in person;

That the original transcript of this deposition will be given to MR. SAM W. CRUSE, JR., who will be responsible for filing same with the Court, in the event such act is called for by any

http://legacy.library.ucsf.edu/ad/dfp37a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

party to this cause;

That if, for any reason, the original transcript of the deposition cannot be located at the time of trial, an unsigned copy may be used in lieu thereof.

That this deposition is being taken pursuant to the Federal Rules of Civil Procedure;

http://legacy.library.ucsf.edu/tid/dfr07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

JOHN GRABOWSKI, Ph.D.,

having been duly sworn, testified as follows to-wit:

EXAMINATION BY MR. SHEFFLER:

Q Please state your name for the record, sir.

A John Grabowski.

Q And, Mr. Grabowski, as you know, my name is Bruce Sheffler. We've met sometime in the past. And I'm going to have a few questions for you today with respect to the Allgood case. I understand that you intend to testify in that case as an expert witness. Is that correct?

A That's correct.

Q And as you know, during the course of this deposition, I will be posing various questions to you with respect to your opinions in this case. And you understand that if you do not understand the question that I ask you, you should and I encourage you to tell me so so that I can rephrase it. Okay? You'll do that?

A Yes.

Q And if you would, Doctor, be careful not to talk at the same time that I do; and I'll try to be careful not to talk at the same time

http://legacy.library.ucsf.edu/tid/dfc97a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

that you do.

A Thank you.

Q The reporter can only take one of us down at a time. So, please try to give verbal responses to my questions; but wait until the question is complete and give a chance for Mr. Holford to make any objections he feels necessary before you respond. You'll do that, won't you?

A Yes, I will.

Q In your expert reports, Doctor, or the correspondence that you have with Mr. Holford that we have copies of, I notice that you use terms like "I assume," "I presume," "It's indicated," "It's suggested," and what have you, which, I'm sure, is very common for you in your line of work. For purposes of this deposition, I want to know what your opinions are with a reasonable degree of professional certainty. You understand that?

A Yes.

Q Do you know what that means?

A Yes.

Q What does it mean? What does "with a reasonable degree of professional certainty" mean

http://legacy.library.ucsf.edu/ad/dfp37a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

to you?

A I would make that statement based on probabilities. So, above a certain probability, I would be quite certain; and below that, I might use other terms.

Q So, when I ask you for your opinions in this case, you understand that you are to give those opinions if you can with a reasonable degree of professional certainty?

A Yes.

Q And if you cannot give an opinion to that degree, you will tell me so, won't you?

A I will do that. I may give you an opinion that is not necessarily as well bolstered in science as some of the more certain opinions.

Q And you'll indicate to me when your opinions are not given with a reasonable professional degree of certainty?

A Yes.

Q Doctor ---

MR. HOLFORD: (Interrupting) Mr. Sheffler, I'm going to object to that. It amounts to being an immensely compound question and request of Dr. Grabowski that

http://legacy.library.ucsf.edu/ad/dfr07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

every time in this probably two-day deposition he check off his opinions against the standards you just mentioned.

Q Doctor, you also, in your report, mention some facts that you assume. Do you recall what I'm talking about?

A You'd have to point out what it is you're talking about.

Q Well, at any point in this deposition, if I ask you a question that asks for a factual recollection about the case -- In other words, if I ask you about Sam Allgood and you want to refer to any materials that were given to you by Mr. Holford or that you came to on your own, you're perfectly free to do that. You understand that, don't you?

A Yes.

Q Just indicate to me what it is you're looking at and we'll make a record of it; but this is not a memory test. You can look at whatever materials you have in your possession to answer questions with respect to the factual bases for your reports. You understand that?

A Yes.

http://legacy.library.ucsf.edu/ad/dfp37a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

Q Now, if you are making recollections, however, or assumptions about facts, you should indicate that to me, if you will. Would you do that?

A Yes. You will find that occasionally I make the error of saying that I assume something when I mean it as a certainty or actually know where it came from, because, as you said, it's the way we speak professionally.

Q The way you psychologists speak professionally?

A All fields of psychology and psychiatry do that, yes.

Q Any time you want a break, of course, you can just ask; and we're going to go probably until around 12:30 or so and take a lunch break. Are there any time constraints you have today?

A No. In fact, if we could go until 10 tonight and finish it off, I'd be perfectly happy.

Q All right. We'll try to accommodate you.

MR. DAVID: I don't think that will be enough time.

THE WITNESS: If we can go

http://legacy.library.ucsf.edu/ad/dfp97a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

until 2 in the morning.

Q Doctor, let me ask you: Since the Grinnell deposition that you participated in and that I participated in, have you consulted in any other case other than the Allgood case?

A No, I have not.

Q Have you talked to any attorneys with respect to tobacco cases at all?

A Not professionally.

Q Well, have you talked to any attorneys with respect to tobacco cases at all, is the question.

A Various friends.

Q Who?

A My wife, for example.

Q Is she an attorney?

A Yes.

Q Who else?

A I believe I spoke to one of her colleagues about a case.

Q And do you remember the case?

A It was about this case.

Q And what was the colleague's name?

A God, I can't think of his last name. I'm sorry. It's Dan - Dan something.

http://legacy.library.ucsf.edu/ad/dfp07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

Q Here in town?
A On the 35th floor -- 37th floor, yes.
Q We'll check the catalogue of tenants downstairs.
A It's Curtis, Mallet.
Q What did you discuss about the case, if you recall?
A It was actually about the issue of payment.
Q And that's all that you discussed, was how to get paid?
A Yeah. I did not relate any information about the case to him specifically. I didn't make reference to the name. I did not give him any information about the case. It was simply an issue about the method of payment. When I was informed that Cruse, et cetera, would be paying the bill and wanted to pay directly to me, I had to work out a mechanism so that it got paid to the university. And since he's a litigator and familiar with such things, he was able to help out.
Q Have you talked to Roger McCabe since the Grinnell deposition?
A Oh, yes, yes.

http://legacy.library.ucsf.edu/ad/dfp07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

Q And have you talked to him about tobacco litigation?

A We've talked on a couple of occasions about the Grinnell case and its current standing.

Q What do you understand that standing to be?

A As I understand it, it's on appeal; and as I said, I haven't spoken to Roger for perhaps a year.

Q Have you talked to him at all about your opinions in that case since the deposition?

A I expect that we have talked about the case at various times when it appeared to be moving along.

Q And have you told him that your opinions in that case have changed in any way?

A We haven't talked about it recently.

Q Have you been deposed in any case since Grinnell?

A No, I have not.

Q Have you consulted with any attorneys with respect to legal matters since Grinnell?

A No, I have not.

Q Have you been involved with any Surgeon General's reports since Grinnell?

http://legacy.library.ucsf.edu/ad/dfc97a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

A No.
Q Do you know when the next Surgeon General's report is coming out, Doctor?
A I do not.
Q Do you know what the topic is going to be?
A I do not.
Q Did you read the last Surgeon General's report on smoking and health?
A It was the one on passive smoking? Is that the last one?
Q Is that the last one you can remember?
A Well, it was chronic obstructive lung disease.
Q What year was that, Doctor?
A I'm not sure. I have it here. The most recent thing I have is one on passive smoking. It's a monograph that they put out.
Q That who put out?
A That the Surgeon General's office put out.
Q That was a monograph, or a Surgeon General's report?
A Well, it's called a monograph.
Q From the office of the Surgeon General?

http://legacy.library.ucsf.edu/ad/dfp37a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

A Would you like to see it?
Q Sure.
A Smoking and Tobacco Control, the National Institute -- I'm sorry. It was the Cancer Institute.
Q Now, when was the last Surgeon General's report that you recall reviewing?
A Reviewing? The last one I reviewed was the 1988 report. I mean, reviewed in the sense it was asked my professional opinion.
Q So, you haven't had any involvement with any Surgeon General's report since 1988 as a professional reviewer or ---
A (Interrupting) That's correct.
Q Now, Doctor, what was the last Surgeon General's report - the subject of the last Surgeon General's report that you can remember?
A I'm sorry. I have them on the wall in my office, and I can't tell you which one is the last one of that set.
Q Was there one in 1990? Do you know?
A I really don't recall the dates. I'm sorry.
Q All right. By the way, this monograph you've handed me, Monograph 4, was a report of

http://legacy.library.ucsf.edu/tid/dfr07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

the United States Environmental Protection Agency.

A Well, if you'll note at the bottom, it's National Institute of Health at the bottom.

Q Doctor, when was the first time you learned about ---

A (Interrupting) And I think there is a distinction, by the way.

Q Okay. That's fine.

When was the first time you learned about the Allgood case or Sam Allgood?

A Mr. Holford called me several years ago. I'm not really certain of the date.

Q How did he come to call you? Do you know?

A I have no idea.

Q When Mr. Holford called you several years ago, what did he say?

A He briefly described the case as other people have in the past. He asked if I'd be interested in talking to him about it. We spoke on the phone.

Q Now, you said, "He briefly described the case as other people have in the past." What other people have described this case in the

http://legacy.library.ucsf.edu/ad/dfp37a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

past?

A No. Other cases. I'm sorry. Not this case.

Q So, he briefly described the case ---

A (Interrupting) This case.

Q --- in the same way that other people have described other cases?

A That's correct.

Q Would you tell us what he described.

A He -- As best I can recollect that conversation, because there have been a number of them over time, with increasing detail, he asked me - or he described Mr. Allgood. He seemed to be querying me as to my position on such things. He described the family just a bit. And then most of the information that I acquired, I acquired later. I'm sure that we had a couple of meetings early on in there.

Q Well, did he tell you that this involved a lawsuit?

A Oh, yes.

Q Did he tell you the parties?

A He described the family, and he mentioned the tobacco companies involved.

Q Did he ask you anything with respect to

http://legacy.library.ucsf.edu/ad/dfp07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

1 your opinions on nicotine addiction or nicotine
2 dependence, as you've used those terms in the
3 past?
4 A I expect he did even in that first
5 conversation, though the more detailed
6 conversations came later.
7 Q Did he ask you whether or not you could
8 give an opinion as to whether Sam Allgood was
9 nicotine dependent?
10 A As in the past in the few instances
11 when I've been asked, I informed him that I would
12 need some information about it.
13 Q And did he give you information at that
14 time?
15 A He gave -- I don't recall that -- I'm
16 not sure of the date on which he actually
17 contacted me; but subsequently, he did give me
18 the several Allgoods' depositions, which I read.
19 Q Let me ask you, Doctor: At the time
20 Mr. Holford called you, had he told you that Sam
21 Allgood started smoking as a young man and smoked
22 cigarettes daily with increasing frequency until
23 he reached a pack or pack and a half a day and
24 continued smoking that for most of his adult
25 life, would you have told him that you were

http://legacy.library.ucsf.edu/tid/dfp37a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

1 willing to testify that he was dependent upon
2 tobacco or nicotine?
3 A As in the past, I would have asked to
4 see additional information that would document
5 such facts as best one could when someone is
6 deceased.
7 Q Well, if he said to you, "Assume those
8 facts are true," and, in fact, had documentation
9 on it, would that be sufficient for you -- Those
10 facts, if they could be established, would those
11 facts be sufficient to come to the conclusion he
12 was tobacco dependent or nicotine dependent, as
13 you used those terms?
14 A Had he said that in the initial
15 conversation, I still would have asked to see the
16 material and I would not have rendered an
17 opinion.
18 Q Because you didn't trust him to
19 represent the facts correctly, or because those
20 facts were insufficient to establish a diagnostic
21 opinion?
22 A Because I wanted to know more about
23 Mr. Allgood and the case.
24 Q Okay. We'll talk some more about that
25 later.

http://legacy.library.ucsf.edu/tid/dfp07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

1 Doctor, you said you had a few meetings
2 or a couple of meetings early on and then you got
3 materials; is that correct?
4 A Yes.
5 Q So, where were the meetings?
6 A The meetings were in my office at the
7 University of Texas.
8 Q How long, if you remember, did those
9 meetings take place? How long were the meetings?
10 A There were a series of them, anywhere
11 from 15 minutes when he'd drop things off to as
12 much as an hour.
13 Q Maybe I misunderstood your testimony.
14 I thought you said you had a couple of meetings
15 before you received materials from Mr. Holford
16 with respect to the case.
17 A Yes.
18 Q Those couple of meetings ---
19 A (Interrupting) Well, because of the
20 dates, I'm not certain whether he presented the
21 various depositions on our first meeting or
22 whether he presented them subsequently. We had a
23 number of meetings where I simply served -- We
24 discussed tobacco issues.
25 Q When did he tell you he wanted you to

http://legacy.library.ucsf.edu/ad/dfp07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

testify in this case?

A I think you'd probably have to ask him that for a precise answer.

Q I'm asking you, because I want your recollection. When did you understand that you may be a witness in this case?

A I expect that it was sometime in late - let's see - late '92 when that was really firmed up. There had been much discussion in between, because it wasn't until '93 that I provided the letters that you have on hand.

Q Did you discuss your opinions with respect to Mr. Allgood and his purported tobacco dependency with Mr. Holford prior to he asking you to testify as a witness?

A I had read the materials. After I had read the materials, we discussed that issue. Prior to that, as I said, we had a number of meetings, not directly related to the Allgoods.

Q Did you bill him for these meetings, Doctor?

A Yes.

Q How much did you bill?

A It was $175 an hour. Those meetings were essentially equivalent to my going out and

http://legacy.library.ucsf.edu/tid/dfp37a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

giving lectures on nicotine dependence.

Q So, the meetings consisted of basically lecturing Mr. Holford on nicotine dependence?

A Well, filling in -- He had studied the matter quite seriously, and clarifying, filling in, providing additional background.

Q Did you give him any materials during these meetings, Doctor, with respect to your opinions?

A As I recall, I recommended that he look at some things. He had, in fact, looked at many of the things that I mentioned.

Q What were those things?

A He had looked at them before he saw me.

Q What were the things?

A They were things like the Surgeon General's report, the '88 report in particular. I expect that I referred him to some monographs for which I was the editor and some papers that are currently in the literature.

Q The monographs for which you were the editor, were those monographs from the National Institute of Drug Abuse?

A That's correct.

Q Can you remember which monographs those

http://legacy.library.ucsf.edu/ad/dfp37a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

were?

A There was the monograph that I edited with Dr. Hall on nicotine replacement, Pharmacological Adjuncts in Smoking Cessation. There was another one that I edited with Ms. Bell. It was a joint meeting with the National Cancer Institute on methods in the study of tobacco use. There was another monograph that was conjunctionally related. We had, I believe, one chapter on tobacco; and that was Behavioral Intervention in Drug Abuse Treatment, something like that, edited with Henningfield and Stitzer.

Q So, if I go to the NIDA monograph series and look up monographs that you edited, I'd find one with you and Sharon Hall?

A Correct.

Q One with you and Bell?

A Bell, yes.

Q And one with you and Henningfield and Spitzer?

A Stitzer.

Q Stitzer?

A Yes. S-t-i, not Spitzer of DSM.

Q And those would be the three monographs you referred Mr. Holford to?

http://legacy.library.ucsf.edu/ad/dfr07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

A I expect that I did that.
Q Your best recollection is that you did?
A Yes.
Q Now, did you give him these monographs; or did you just tell him the titles?
A I expect I told him about the titles.
Q Now, the articles that you told Mr. Holford about that would help him in his quest to become knowledgeable about dependence and nicotine addiction, as you used the terms, what would those articles be, Doctor?
A I really don't recall all of them. I expect that I informed him that he should look at the - some of the papers by Benowitz. There were a couple of other things that I may have mentioned or may have shown to him. I don't recall. He had done a fair amount of work on his own.
Q Benowitz has written an awful lot of papers on pharmacology, nicotine, pharmacokinetics of nicotine.
A That is true.
Q Do you recall at your deposition we talked about one in specific that he wrote that you had given to Mr. McCabe?

http://legacy.library.ucsf.edu/ad/dfr07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

A Yes.

Q Do you recall that?

A Yes.

Q Would that paper be one of the ones that you may have suggested to Mr. Holford?

A That or a more recent rendition of it, since that paper has been repeated in one form or another a number of times since 1988.

Q But the basic substance of the paper hasn't changed?

A That's correct.

Q And you believe that that still is a fairly good overview or review of the studies with respect to tobacco maintenance and use?

A It's an excellent series of papers on pharmacology and disposition of nicotine.

Q Doctor, did you mention to Mr. Holford or did you refer him to any papers by John Hughes?

A I may well have done that. As I recall, I mentioned a list of people in the field whose papers he might have attended to.

Q Do you recall at your deposition in Grinnell, we talked about some papers by John Hughes at some length?

http://legacy.library.ucsf.edu/tid/dfp37a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

A Yes.

Q And at that time you told us that John Hughes had done some eloquent studies of abstinence syndrome upon cessation of tobacco use. Do you recall that?

A Yes. I believe I said they are elegant, not eloquent.

Q Elegant. In any event, you found that John Hughes' studies were a good study of abstinence syndrome and its importance in tobacco maintenance?

A Yes. He and Dorothy Hatsukami have published several papers.

Q And you find that those papers are still relevant for that issue today?

A Yes. I think in details, some of the notions may have shifted slightly; but the basic premises, I think still stand.

Q You don't have any studies that you can refer us to that are more elegant than John Hughes' studies on abstinence syndrome?

A No, but I've heard some eloquent presentations.

Q By who, Doctor?

A Drs. Benowitz, Stitzer, Hughes.

http://legacy.library.ucsf.edu/tid/dfp97a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

Q So, John Hughes is still, in your estimation, an expert in the field of abstinence syndrome?

A Yes. We have some differences of opinion, but he is certainly an expert in that.

Q Doctor, you mentioned you billed Mr. Holford $175 per meeting.

A Uh-huh.

Q Per hour.

A Basically, yes.

Q Did you spend any time reviewing the materials in this case?

A Yes.

Q How much time, approximately, have you spent on that?

A I think I've probably spent -- Well, specifically materials that he gave me, 40 hours, perhaps.

Q And how much did you bill him for that?

A I didn't bill him for that.

Q You did this work at your office?

A I did it at my office. I did it at home, oftentimes on weekends. I spend most of my weekends in my office.

Q The 40 hours that you spent, was this

http://legacy.library.ucsf.edu/ad/dfp07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

1 basically in reviewing the material Mr. Holford
2 gave you?
3 A Yeah. That's just a rough estimate.
4 Q And during the course of this, did you
5 generate any notes? Did you take down any
6 information or make annotations on the materials
7 he gave you?
8 A I put 3M Post-its in them. I also have
9 some notes from my most recent review of the
10 materials.
11 Q And you reviewed -- These notes that
12 you had taken with respect to your review of the
13 depositions, you reviewed that with Mr. Holford?
14 A My notes, no.
15 Q Doctor, how much are you charging us
16 today for your time?
17 A $300 an hour.
18 Q How did you arrive at that figure?
19 A My understanding of colleagues and
20 other people in the field is that they charge
21 anywhere from $300 to as much as a thousand
22 dollars an hour, and I ---
23 MR. SHEFFLER: (Interrupting)
24 Off the record.
25

http://legacy.library.ucsf.edu/tid/dfp07a00/pdf Source: https://industrydocuments.ucsf.edu/docs/gjxl0001

(AT THIS TIME THERE WAS A BRIEF OFF-THE-RECORD DISCUSSION, AFTER WHICH THE PROCEEDINGS RESUMED AS FOLLOWS:)

(By Mr. Sheffler)

Q Doctor, did you talk to Mr. Holford with respect to setting your fees for this deposition?

A Yes, I did.

Q Did he suggest that you charge $300 an hour?

A No, he didn't.

Q Why are you charging him $175 an hour and us $300 an hour?

A It's a different activity. And I would note that when it comes to -- When and if it comes to trial, my understanding is that he is required to pay the bill at that point; and at that point, he will pay $300 an hour.

Q That was my next question.

How much have you been paid so far by Mr. Holford?

A About $3500.

Q Was that money going into your pocket,

http://legacy.library.ucsf.edu/tid/dfr07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

1 or did it go to the school?
2 A That was money -- From conversations I
3 had had with my chairman, that was essentially
4 honorarium because those 20 hours weren't really
5 related to the case, per se.
6 Q I'm sorry. I didn't understand. You
7 said you talked to your chairman?
8 A Yeah. Because the university has
9 policies about where money goes. I can accept
10 money that is in honorarium for lectures that I
11 give, for presentations, for discussions with
12 people, seminars, that sort of thing. Money
13 directly related to depositions and court
14 appearances -- that is, in the deposition and in
15 the court appearance, goes -- It's a -- It goes
16 into the Department of Psychiatry or whatever
17 department in the University of Texas you happen
18 to be affiliated with.
19 Q Did you get some credit for that, that
20 you brought money into the department?
21 A No.
22 Q Is it somehow you have more ability to
23 use the money or direct the money for research
24 purposes?
25 A No. Absolutely I have no control over

http://legacy.library.ucsf.edu/tid/dfp07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

1 that money. It goes into the chairman's general
2 fund.
3 Q And the fact that you generate money
4 for the chairman's general fund has no advantage
5 to you whatsoever?
6 A I generate millions of dollars in
7 research money, and this is -- There is no
8 interest -- I mean, there is no benefit to me for
9 this money at all, absolutely none. In fact, I
10 believe in the McCabe case, they lost the check.
11 Q McCabe lost the check, or they did?
12 A No, no. The department did.
13 Q Are you sure McCabe sent it to them?
14 A He sent it to them, because I gave it
15 to them and they managed to lose it and it had to
16 be reissued.
17 Q Doctor, how do you want the check made
18 out in this case?
19 A I would like to have it made out to the
20 Department of Psychiatry at the University of
21 Texas-Houston Health Science Center and sent in
22 care of me. Somewhere my name should appear on
23 it so they do know where it came from so they
24 don't just put it aside again.
25 I do have to account for my time away

http://legacy.library.ucsf.edu/tid/dfp37a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

from the university, which this is.

Q So, you don't have to take a vacation day or anything for this?

A This is called, I believe, administrative leave.

Q Doctor, are you a member of DOC? Do you know what DOC is?

A That's Blum's organization. No, I'm not.

Q You know what the organization is, though?

A It's physicians who are - physicians and other health care professionals, I believe, who are waging their own campaign with respect to smoking.

Q And that campaign is a campaign to eliminate smoking; isn't that true, Doctor?

A I'm really, quite frankly, not very familiar with their activities.

Q Have you ever heard of a computer bulletin board called Scarcnet?

A No, I haven't.

Q You have not heard of that?

A Huh-uh.

Q You got a subpoena with respect to this

http://legacy.library.ucsf.edu/ad/dfr07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

case, Doctor?

A Yes. I have three copies of it here. Which one would you like?

Q Why don't you give me one copy and let's see what you got.

A Everybody wanted to send me one.

Q Let me see that.

MR. HOLFORD: You want me to read it for you?

MR. SHEFFLER: No. I got it.

(By Mr. Sheffler)

Q Doctor, with your permission, I would like to mark the subpoena that was served upon you, as well as a fax that you received from Mr. Holford.

MR. SHEFFLER: Let's mark these as Exhibits 1A and B.

A You wouldn't like to mark the copy that Cruse, Scott, Henderson & Allen sent me?

(By Mr. Sheffler)

Q Is it identical to the attachment to the subpoena, Doctor?

MR. SHEFFLER: I see that it's not. Let's mark that as Defendant's Exhibit 1C.

http://legacy.library.ucsf.edu/ad/dfp37a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

(WHEREUPON, DEFENDANT'S EXHIBITS 1A, 1B AND 1C WERE MARKED FOR IDENTIFICATION PURPOSES. SAME WILL BE FOUND AT THE CONCLUSION OF THIS DEPOSITION.)

(By Mr. Sheffler)

Q Doctor, let me hand you what is marked as Defendant's Exhibit 1A, which is a subpoena in this case for your appearance at this deposition with an attached notice and schedule of documents attached as Exhibit "A". When did you receive that, Doctor?

A On Tuesday morning at about 8:00, 8:00 a.m.

Q And let me identify next for the record 1B, which appears to be a fax from Mr. Holford to you which has attached to it the copy of the American Tobacco's notice of intention to take oral deposition with subpoena duces tecum and Exhibit "A," a list of documents similar to that on Defendant's Exhibit 1A. Would you please, sir, read for us the notation that Mr. Holford wrote on the fax to you.

A It says -- I frankly didn't read the

http://legacy.library.ucsf.edu/tid/dfr07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

notation before. "Enclosed. Call me if any questions. Also, I have evidence that by 1949, Sam was smoking at least one and one half packs per day and smoked on awakening. I'll put together the deposition pages." That's on the cover sheet of a fax document.

Q Did you call him with respect to questions you had with respect to Exhibit A - or Exhibit 1A? 1B. I'm sorry.

A Let me see. The 17th. The 17th was Thursday; is that correct?

MR. RILEY: Yes.

A Yeah. I was in D.C., and when I -- I got this in my office on either Sunday afternoon or Monday morning. I spoke with him after this, but not specifically -- Well, not about this note, because I didn't read it. I had asked him questions, but not about this.

Q You asked him questions about what?

A In preparation for coming to this, I asked him a couple of questions about the case.

Q And what were those?

A I was simply trying to verify that I had my dates right, and it had to do with the date of Mr. Allgood's birth and so on.

http://legacy.library.ucsf.edu/tid/dfp07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

Q His birth date, and what other dates?

A I had asked him -- I had determined dates that I thought reasonably represented various events in Mr. Allgood's life, and I checked with him to make sure that there was - that he didn't have other information that countered what I had. In effect, that I had identified the things correctly.

Q And you noted those things on a pad in front of you?

A I have several dates noted, yes. Some of which I asked him about, some of which I did not.

Q But the questions you asked Mr. Holford were about dates that you had already recorded on your pad?

A Specifically, yes, yes.

Q Did Mr. Holford correct any of the information that you had?

A No. Apparently, they were the right dates.

Q So, he confirmed for you the information that you had with respect to Sam Allgood?

A Yes.

http://legacy.library.ucsf.edu/tid/dfp37a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

Q And you looked to him for that confirmation? You called him to ask and seek that confirmation; is that correct?

A I did. I did.

Q Doctor, let me hand you what's Exhibit 1C. Again, a copy of the subpoena, as well as Exhibit "A." There are some notations on Exhibit "A" to 1C.

A That's correct.

Q Who wrote those notations?

A I did that.

Q When did you do that?

A I did that on Monday, the 21st.

Q For No. 1, which seeks all documents relating to any fee, retainer, or engagement agreement you have with Plaintiffs, you have crossed that out and put, "no letter/none."

A That's correct.

Q Does that indicate you have no documents in response to no. 1?

A I have no documents.

Q No. 2, you do have documents, though, because you have "okay" next to no. 2; is that right?

A That's what it says, yes.

http://legacy.library.ucsf.edu/ad/dfr07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

1 Q Where are those documents?
2 A They're in the two bags that I have
3 with me.
4 Q And the same for no. 3? You have
5 documents in the two bags you have, as well as
6 no. ---
7 A (Interrupting) And what is no. 3?
8 Q No. 3, you say "okay."
9 A Here. Why don't we just take this
10 other copy. No. 3 is documents produced to
11 Plaintiffs. Yes, I have those. I'll have to
12 admit, by the way, that I may not have all known
13 documents when you get to some of the later
14 items.
15 Q Well, we're not on there yet, so...
16 No. 4, you have no documents that you
17 received from other consultants, non-testifying
18 experts, any witnesses? You don't have any other
19 documents responsive to no. 4?
20 A Actually, I - I have some materials
21 from -- I may at one point have been given a list
22 of Plaintiffs' experts, but I'm not certain. I'm
23 not certain that I have that with me. If I do,
24 it's here. If I don't ---
25 Q (Interrupting) Well, why don't we do

http://legacy.library.ucsf.edu/ad/dfp07a00/pdf Source: tobaccoindustrydocuments.ucsf.edu/docs/gjxl0001

it this way: Why don't you just show me what you've got, what you've brought here.

A Why don't we just finish up this list while we're at it.

Q Well, show me the documents you have first.

A Okay. Bonnie Allgood, deposition of November 18, 1991, two volumes. Deposition of Nora Allgood, March 13th, 1991, Nora Lillian Allgood. Deposition of Marcus P. Allgood, November 21, 1991. And a deposition of Malcolm P. Allgood, November 20, 1991. Some pages from a deposition by Mr. Andrew Brown. Some pages from a deposition from Luther - I believe it's Benard, B-e-n-a-r-d - Allgood, January 14, 1994.

Q While you're digging this out, Doctor, is that whole file that you're digging from materials that relate to this case in response to the subpoena?

A Later in this list of exhibits it asks for material that I - essentially that I used or consulted; and as I recall from our previous encounter in Grinnell, you wanted any and all documents that I had used or ever thought of using or might use in the future. So, I was

http://legacy.library.ucsf.edu/ad/dfp37a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

1 trying to be somewhat thorough, although I
2 clearly didn't bring everything with me.
3 I have here some ---
4 Q (Interrupting) Well, Doctor, maybe we
5 can short-circuit this. Why don't you just show
6 me -- Just give me all the materials, and I can
7 see what they are. Okay?
8 A Okay. Here are the previous
9 depositions that you and Mr. McCabe took from me.
10 By the way, I'm not sure how this cover statement
11 applies here about ---
12 Q (Interrupting) Well, we'll worry about
13 that. It's okay.
14 MR. HOLFORD: It's their
15 statement, so...
16 THE WITNESS: Fine. Well,
17 one of them is McCabe's. But I
18 expect you're familiar with those
19 documents.
20 A Okay. We have Chronic Obstructive Lung
21 Disease. Addiction. Nicotine Replacement.
22 MR. DAVID: I'd like to know
23 where you got those bags, Doctor.
24 THE WITNESS: Just have to go
25 to the right meetings.

http://legacy.library.ucsf.edu/tid/dfp37a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

Professional meetings.

A This was something that isn't listed in my CV. It's a meeting that I participated in as one of the reviewers of the presentations, and there are sections that were for discussion. So, some of my comments are in there.

Q Doctor, let me just for the record here -- The title of the document you just handed me is New Developments in Nicotine Delivery Systems. Jack Henningfield and Maxine Stitzer are the editors, and it was of proceedings of a conference held at Johns Hopkins University, Baltimore, Maryland. Is this one of the documents you referred Mr. Holford to?

A I don't recall that I did or not.

Our copies look similar. Doddered.

Q I bet you we have stickers on different pages, though.

A Quite possibly.

Q Doctor, I'm looking at what is the document that is entitled The Health Consequences of Smoking: Nicotine Addiction, a report of the Surgeon General in 1988, with "Grabowski" written on the top of it. This is your copy?

A That's correct.

http://legacy.library.ucsf.edu/ad/dfp37a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

Q Doctor, you have certain Post-its on this document. Were those Post-its put on here by you?

A Yes.

Q And did you put those Post-its on here when you were conducting your review in preparation for this case?

A No.

Q Do you recall when you put the Post-its on?

A I expect that I put those on back shortly after that came out, or perhaps more recently; but they were not put on specifically with respect to this case.

Q There's some notes in your volume of the Surgeon General's report of 1988. Those notes were written by you?

A I expect they were. I have loaned the report to people and they might have written in the margins; but I expect the notes are mine.

I almost forgot here. Sorry. I have some more materials.

Q Doctor, in the 1988 Surgeon General's report, there is a slip of paper with handwritten notes on it. At the top, there's the word

http://legacy.library.ucsf.edu/tid/dfc07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

"Holford," and there's other notes underneath. How did that come to be generated; and who generated it, to your knowledge?

A I wrote it.

Q And when and how did you come to write that?

A Okay. Mr. Holford -- Although I don't know the date of it. We can estimate that it was probably sometime early '93 or late '92. And Mr. Holford had called me, and he had mentioned the deposition. I just wrote down "deposition," that he needed -- No. 2 was that he needed a written report on addiction, that he needed to have his expert deadline list completed by March of 1993, and that -- That's no. 3. No. 4 is March, '94 would be the end of discovery. And no. 5 was that it would be before Federal Court, Judge Botley, it appears to be. I'm not sure. I mean, those were just points that I happened to note down and stuck in the book.

Q What's the 16 divided into 2500 after "deposition" refer to?

A I have no idea. I may have been doing other things at the time.

Q I'll stick it back in the Surgeon

http://legacy.library.ucsf.edu/ad/dfp97a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

General's report.

Why don't you just give me those files.

A Well, let me -- You asked for a current copy of my CV. That's the most current copy. I have copies of the two letters that I sent to Mr. Holford. I have copies of abstracts from two papers which are recently submitted, and they are not listed on my CV. I have some materials from DSM-III-R, the Diagnostic and Statistical Manual, III, Revised, of the American Psychiatric Association.

Q Doctor, before we leave this, let me ask you quickly: Did you rely upon these submitted but not published papers in coming to your opinions in this case?

A Those contribute to general knowledge about tobacco dependence and variables that affect it, though they were not necessarily specifically related to this case.

And then I have some extra materials here from various depositions.

Q I'm at a bit of a loss, Doctor. It looks like the two abstracts you have here are exactly the same.

A Actually, there are two abstracts

http://legacy.library.ucsf.edu/ad/dfp07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

together. There you go. This is just an extra copy.

And I would like to have all of that material back.

MR. HOLFORD: As we've done in at least recent depositions, because there's been - everything has been so busy, we've only -- I mean, I bring and I think Dr. Grabowski just indicated he has just brought his originals. And we would like them not to be marked, but copies made for marking if any of them are to be marked.

MR. SHEFFLER: Actually, for the record, it does appear that these are copied here, they are copies.

MR. HOLFORD: They may be, but they're Dr. Grabowski's originals. Most of what I have are copies, but they're my originals; that is, only set.

MR. SHEFFLER: Well, there

http://legacy.library.ucsf.edu/ad/dfr07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

are two identical originals of this.

MR. HOLFORD: In that case, Mr. Sheffler, I'm sure he can part with one.

THE WITNESS: I'd be happy to.

MR. SHEFFLER: Maybe there are three.

THE WITNESS: Take two.

(By Mr. Sheffler)

Q Doctor, are there any other materials that you have that are responsive to this subpoena request that relates to this case?

A I have my most recent notes of just reviewing the depositions of the several parties again.

Q Doctor, I noticed in my quick review of the materials you produced there was no documents that seem to pertain to Mr. Holford's note to you of 2-17-94. In that note, Mr. Holford says he will be putting together deposition pages that relate to purported evidence that Sam was smoking one and a half packs a day from 1949. Did he give you such deposition pages?

http://legacy.library.ucsf.edu/tid/dfr07a00/pdf
Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

A Oh, they're included in the material that you have there. It was material from Mr. Brown, I believe, yeah.

Q Okay. On the excerpts of Mr. Brown's deposition, it's pages 7, 12, 13, 14 and 41 and 42.

A There's another one there. Some of the pages are identical.

Q This is Luther Allgood.

Were there two sets of Brown depositions he sent to you?

A He gave me one yesterday, and it was identical to that. That was one he gave me earlier. In think he had forgotten.

Q He gave you two sets of excerpts from the Brown deposition?

A Yeah. That's correct.

Q And he did the highlighting in this?

A That's correct.

Q And there's a note here, "Holford, highlighting."

A That was for you.

Q Is that your note?

A Yes.

Q You wanted to make sure that I knew

http://legacy.library.ucsf.edu/tid/dfc07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

that Mr. Holford was picking out these things, not you?

A So you wouldn't have to ask the question.

Q Of course, I did anyhow.

MR. BIERSTEKER: It's hard to teach an old dog new tricks.

Q You didn't read the entire Brown deposition, I take it?

A No, I did not.

Q You relied upon Mr. Holford to excerpt the important facts for you?

A The facts that he chose to excerpt.

Q You relied upon Mr. Holford to choose the facts?

A That's correct.

Q And you rely upon Mr. Holford to choose the facts to establish what Mr. Holford wanted to establish, which was that Sam smoked one and a half packs a day and smoked on awakening?

A Those -- The irony is that similar kinds of information are available throughout the other transcripts.

Q All right. We'll get to that. Let me see your notes, Doctor. Let the record reflect

http://legacy.library.ucsf.edu/ad/dfr07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

that you've just handed me a note pad with approximately 15 or so pages of handwritten notes, which you have written pursuant to your review of the materials in this case?

A That's correct.

Q Were these all written at the same time?

A They've all been written in the last three days.

Q I see that part of it includes a digest or summary of depositions. You have page numbers with ---

A (Interrupting) That's entirely a summary of depositions.

Q The first page, "Dates, start, Pall Malls, 1987, throat cancer, 1949, Camels, Pall Mall, Andrew Brown, '92. 1985, Ms. Allgood asks him to try Nicorette." This information came from where?

A Depositions.

Q And this is the information that you confirmed with Mr. Holford?

A A couple of points. Not all of it.

Q At the bottom, it says, "themes," and there is some material that I can't read.

http://legacy.library.ucsf.edu/tid/dfr07a00/pdf
Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

A I'd be glad to read it to you.

Q If you would, sir.

A It says, "Themes. Continuous presence of cigarettes," with a quote from one of the depositions where someone indicated that it was, quote, like an alcoholic, unquote. I just noted throughout the depositions -- There are three of the depositions, I think, that indicate he purchased cigarettes in abundance. And the third item there is that -- It's shorthand. "Despite health effects, for example, coughing." In other words, referring to the fact that he continued to smoke.

Q Despite his coughing?

A Coughing and -- Well, health effects was one example. It says, "eg, health effects," or coughing.

Q When we take our break, we'll want to get a copy of some of these materials; and we'll endeavor to keep them in their file folders for you.

Do you have any other materials, Doctor, other than what you've produced today that you received from Mr. Holford?

A Everything I received from Mr. Holford

http://legacy.library.ucsf.edu/ad/dfr07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

is here.

Q You have not destroyed any materials that you received from Mr. Holford?

A No, I have not.

Q Have you generated any materials other than what you've produced here today?

A There are two letters. You have copies of both of those.

Q There is also a declaration that you executed for Mr. Holford, was there not?

A Yes.

Q So, there's three pieces of material that you produced here that you did for Mr. Holford?

A There is one item that I believe he provided that I signed after reviewing and revising it.

Q And that was the declaration?

A Yes.

Q Do you have any copies of the revisions that you made to the declaration?

A No.

Q Did you revise it and send the revisions to Mr. Holford?

A No. He had come to my office. And I

http://legacy.library.ucsf.edu/ad/dfp97a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

1 pointed out some words that I - in my agonizing
2 detail, some words that I thought should be
3 changed; and I don't recall what they were.
4 Q Well, maybe when we get to that point,
5 we can refresh your recollection.
6 A Sure.
7 Q Any other materials that you sent to
8 him or he sent to you that were destroyed or are
9 non-existent or not produced?
10 A You have everything that I received
11 from him and all of the documents that I produced
12 with respect to this case.
13 MR. HOLFORD: Let me be open
14 on this, Mr. Sheffler. He asked
15 me to bring copies of the two
16 checks that I gave him. He didn't
17 have them. And I do have them, if
18 you want them.
19 MR. SHEFFLER: I do want
20 them.
21 Off the record.
22
23 (AT THIS TIME THERE WAS A
24 BRIEF OFF-THE-RECORD DISCUSSION,
25 AFTER WHICH THE PROCEEDINGS

http://legacy.library.ucsf.edu/tid/dfp37a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

1 RESUMED AS FOLLOWS:)

2

3 (By Mr. Sheffler)

4 Q Doctor, in the depositions -- Not

5 referring to the excerpts now. I'm referring to

6 the actual deposition volumes that you've

7 produced here today. There are a number of

8 yellow Post-its.

9 A That's correct.

10 Q Who put the yellow Post-its on those

11 pages?

12 A I did.

13 Q And there are some notes written on

14 some of the Post-its. Who did that?

15 A I did.

16 Q And there is highlighting in the

17 depositions. Who did that?

18 A I did.

19 Q Were any of these depositions marked or

20 annotated in any way when you received them from

21 Mr. Holford?

22 A There are some places -- I have no

23 idea. Somewhere there was some faint bars from

24 someone who might have read them, or it may have

25 been the reporter. There are a couple of pages.

http://legacy.library.ucsf.edu/tid/dfp37a00/pdf Source: tobacco industry documents ucsf.edu/docs/gjxl0001

And he did not mark anything in those for my attention, as far as I know. I mean, I just happened to notice in the margins. It may have been from bad Xerox machines.

Q And these faint bars were obviously the result of copying? In other words, you couldn't tell that they were written on the page?

A No, they were not written on these copies, no.

Q Did you give Mr. Holford copies of these depositions with the Post-its?

A No.

Q He's never reviewed these depositions, then?

A No.

Q He doesn't know what Post-its you've put on here?

A No, he doesn't.

Q And he doesn't know what you've highlighted, does he?

A No, he doesn't.

Q Other than the two excerpts from the depositions of Luther Allgood and Andrew Brown, did you get other excerpts, Doctor?

A Everything that I received is there.

http://legacy.library.ucsf.edu/tid/dfr07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

There may be some others.

Q Do you recall if you got excerpts of the depositions he gave you in full?

A Not that I recall, no. There wouldn't have been any reason.

Q Did you get a full copy of Sam Allgood's testimony?

A I don't have a deposition from Sam Allgood.

Q Doctor, in your report of November 8th, you mention that you reviewed some additional materials, including a deposition from Sam Allgood. At least you called it additional testimony from S. Allgood. Do you recall that?

MR. HOLFORD: Could I see that, Mr. Sheffler?

A No, I frankly don't. It may have been some material from before his death. I just -- I don't recall.

Q Let me direct you and your Counsel's attention to ---

MR. HOLFORD: (Interrupting) Pardon me. I'm not his Counsel.

MR. SHEFFLER: That's true. Thank you for that clarity.

http://legacy.library.ucsf.edu/tid/dfr07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

(By Mr. Sheffler)

Q --- Plaintiffs' Counsel to no. 3 where it says, "the additional testimony from S. Allgood." Do you know what that refers to?

I'm asking you.

A There are two possibilities. One is that -- As I understand it, Mr. Allgood was involved in some sort of case before his death. There may have been a page from that. I really don't know. But this may simply be an error on my part, because there was material from a Mr. -- This may have been about Mr. Allgood from the foreman. I don't recall. Those are the two possible explanations. I think -- My recollection reading this is that he must have given me a couple of pages from - or some pages from a previous deposition or testimony by Mr. Allgood.

Q You don't recall it, though?

A No, I really don't.

Q It wasn't so memorable that you're relying upon it for the basis of your opinions today, I take it?

A No, I don't recall.

Q Because it wasn't even memorable enough

http://legacy.library.ucsf.edu/tid/dfr07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

that you remember what it is.
A Well, that's true.
Q Doctor, what is ---
A (Interrupting) Because this also refers to the deposition from the foreman, Mr. Crainer.
Q That was my next question.
Where is that deposition?
A That material -- There's some pages.
Q You didn't see the entire deposition of Mr. Crainer?
A No, I did not.
Q You just saw selective excerpts from it?
A Yes.
Q And those, again, were selected by Mr. Holford who, we've just been informed, is the Plaintiffs' Counsel?
A That's correct.
Q Who's bringing this lawsuit?
A That's correct.
Q Doctor, there also were, according to the document you're holding in your hands, additional materials you were provided regarding Allgood V. RJR. Are these materials contained in

http://legacy.library.ucsf.edu/ad/dfp37a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

what I'm now handing you?
A Could you repeat the question, please.
Q The additional materials that's referred to in your November 8th letter ---
A (Interrupting) In item 3?
Q No. In item 1. Well, the first paragraph.
A Yes.
Q I've read "additional materials you provided." This is a letter to Mr. Holford.
A Yes.
Q You have those additional materials?
A Yes, I do here. It is the materials that you handed me.
Q And you reviewed those materials and relied on those materials in coming to your opinions of November 8th, 1993?
A I reviewed all of the materials and relied on the body of information to come to my opinions.
Q You also talk about additional questions that you've reviewed in that first paragraph.
A Yes.
Q Are those additional questions

http://legacy.library.ucsf.edu/ad/dfp37a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

1 contained in that document?
2 A Yes. The questions are in a letter to
3 me from Mr. Holford.
4 MR. SHEFFLER: Let's mark
5 that separately.
6 MR. HOLFORD: I'm sorry.
7 That's his original. So, I don't
8 mind if -- What we've done is the
9 reporter puts a mark on it and
10 then agrees to take a copy
11 similarly marked later so that we
12 don't delay the deposition.
13 MR. SHEFFLER: Well, we'll
14 take a break and get copies made
15 of what we need.
16 MR. RILEY: Can we mark that
17 and just ---
18 MR. HOLFORD: (Interrupting)
19 He'll need that back, but then you
20 can -- That's my original letter.
21 So, then you can make a copy.
22 MR. SHEFFLER: Let's go off
23 the record.
24
25 (AT THIS TIME THERE WAS A

http://legacy.library.ucsf.edu/tid/dfp07a00/pdf Source: https://industrydocuments.ucsf.edu/docs/gjxl0001

BRIEF OFF-THE-RECORD DISCUSSION, DURING WHICH DEFENDANT'S EXHIBIT NO. 2 WAS MARKED FOR IDENTIFICATION PURPOSES. SAME WILL BE FOUND AT THE CONCLUSION OF THIS DEPOSITION. AFTER THE DISCUSSION, THE PROCEEDINGS RESUMED AS FOLLOWS:)

MR. HOLFORD: Exhibit 2 is being given by Dr. Grabowski on the understanding that the exhibit so marked will be copied and the copy will be marked Exhibit 2 by the reporter and used for the record and the instant Exhibit 2 will be returned to Dr. Grabowski. Is that all right, Mr. Sheffler?

(By Mr. Sheffler)

Q Dr. Grabowski ---

MR. HOLFORD: (Interrupting) I'm sorry. Is that agreeable?

MR. SHEFFLER: I wasn't listening, to be honest with you. We're going to mark a copy and

http://legacy.library.ucsf.edu/ad/dfp37a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

1 give him the original back. Is
2 that your problem?
3 MR. HOLFORD: That's
4 correct.
5 THE WITNESS: The point is
6 that you can make copies of
7 everything that I have here, and I
8 would just like it returned.
9 MR. SHEFFLER: As I told you,
10 that's what we intend to do.
11 THE WITNESS: That's all I
12 ask.
13 (By Mr. Sheffler)
14 Q Doctor, let me give you Defendant's
15 Exhibit 2, which appears to be a letter from
16 Mr. Holford to you with a number of attachments.
17 And let me ask you, Doctor, if Defendant's
18 Exhibit 2 is indeed the questions and materials
19 that you were referring to in your first
20 paragraph of your letter dated November 8th,
21 1993.
22 A That appears to be the case, yes.
23 MR. SHEFFLER: Let's mark
24 this 3.
25

http://legacy.library.ucsf.edu/ad/dfp07a00/pdf Source: tobacco industry documents.ucsf.edu/docs/gjxl0001

(WHEREUPON, DEFENDANT'S EXHIBIT NO. 3 WAS MARKED FOR IDENTIFICATION PURPOSES. SAME WILL BE FOUND AT THE CONCLUSION OF THIS DEPOSITION.)

(By Mr. Sheffler)

Q Let me hand you, Doctor, what has been marked as Defendant's Exhibit 3, a letter dated November 8th, 1993, to Mr. Holford from you. Is that your letter, sir?

A Yes, it is.

Q And this was written in response to certain questions put to you by Mr. Holford with respect to this case?

A That's correct.

Q Doctor, what order did you receive the materials in? What did you get first? Do you recall?

A I expect I got the depositions first.

Q Do you recall which deposition you read first?

A Yes.

Q And which was it?

A Lillian Allgood.

http://legacy.library.ucsf.edu/id/dfp07a00/pdf Source: tobacco industry documents ucsf.edu/docs/gjxl0001

Q After reading Lillian Allgood's deposition, were you prepared to come to the conclusion that Mr. Allgood was nicotine dependent, as you've used the term?

A I withheld my judgment on that until I had read all the other depositions.

Q And why did you do that, sir?

A I think that it is important to garner as much information as possible. Since I had all of those volumes before me, it seemed reasonable to read them and see how they coincided, if they did not coincide.

Q Let me ask you: You think it is important to have reviewed all the information available with respect to Mr. Allgood and his smoking history before you came to a conclusion?

A No. I think it was important to make an initial decision to read the materials that had been given to me. I had before me, however, many hundred pages of deposition from several people.

Q After you read those depositions, you were able to come to an opinion with respect to Mr. Allgood and his cigarette smoking behavior?

A I was impressed by the material.

http://legacy.library.ucsf.edu/ad/dfp37a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

Q Well, that's helpful; but it's not an answer to my question. Were you prepared to come to an opinion with respect to the reasons that Mr. Allgood smoked cigarettes after reading those materials?

A I believe in the totality, yes. I think that there has since been some additional information that simply bolstered what was in those volumes.

Q Doctor, you were given certain interrogatory responses. Do you recall that?

A To? To whom?

Q You were given interrogatory responses. Do you recall that?

A Could you clarify that, please. Whose?

MR. SHEFFLER: Let's mark this.

(WHEREUPON, DEFENDANT'S EXHIBIT NO. 4 WAS MARKED FOR IDENTIFICATION PURPOSES. SAME WILL BE FOUND AT THE CONCLUSION OF THIS DEPOSITION.)

http://legacy.library.ucsf.edu/tid/dfp07a00/pdf Source: tobacco industry documents ucsf.edu/docs/gjxl0001

1 (By Mr. Sheffler)
2 Q Let me hand you what's marked as
3 Defendant's 4, Doctor, and ask you to identify
4 that for the record, please.
5 A This is a letter that I wrote to
6 Mr. Holford dated Monday, March 1, 1993.
7 Q Doctor, in the first paragraph of that
8 letter, you mention that you have read materials
9 you were provided.
10 A Yes.
11 Q Were you provided these materials by
12 Mr. Holford?
13 A That's correct.
14 Q And you reviewed these materials before
15 you wrote this letter; is that correct?
16 A That's correct.
17 Q Among those materials were the
18 depositions of Lillian Allgood, which you've
19 produced today; Bonnie Allgood, which you've
20 produced today; Malcolm Allgood; and Marcus
21 Allgood?
22 A That's correct.
23 Q And it also refers to three pages,
24 pages 1, 6, and 7 of Plaintiff's Answers and
25 Objections to The Council for Tobacco Research,

http://legacy.library.ucsf.edu/tid/dfc07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

Inc.'s, First Set of Interrogatories to Plaintiffs. Do you see that there?

A I see that.

Q Well, do you recall writing that?

A I wrote that, and I did it -- As you can see, I did it very cautiously. I said "these included and were limited to." And I frankly don't recall those pages in the volume of information. They are either in the piles here or they're in ---

Q (Interrupting) You've produced them?

A --- my file.

Fine. Then you might want to show them to me.

Q I'm asking you, Doctor: Have you produced them?

A Oh, have I? They're either in the files here or I have misplaced them or they're in my files at the office. I frankly don't recall. But I expect you have a copy.

Q Doctor, let me refer you to Defendant's Exhibit 2 and direct your attention to a page in there that is entitled "Plaintiffs' Supplemental Answers to CTR's Interrogatories." Is that the document that you were referring to in your

http://legacy.library.ucsf.edu/tid/dfp07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

1 letter of March 1?
2 A I'm quite certain that's the material,
3 yes. Thank you.
4 Q Which pages are there, Doctor?
5 The first one is probably 1. What's the next
6 page?
7 A There's no page 2. There's a page 3,
8 and then there's a videotaped deposition from
9 John Crainer.
10 Q So, the pages that you received - the
11 responses, at least, as of the time you received
12 Defendant's Exhibit 2 were pages 1 and 3?
13 A Well, it's conceivable I received --
14 Just a second. It's stapled together, because I
15 wouldn't have removed the staple. I may have
16 misplaced a page, but I think not. But what is
17 here is pages 1 and 3, obviously. I just don't
18 know whether I received page 2.
19 Q Well, you say in your letter that you
20 received pages 1, 6, and 7, which seems to be
21 pretty explicit, so...
22 A Okay. Pages -- Pages 1, 6, and 7.
23 Well, it is pretty explicit. I apparently
24 received -- I either have misstated the pages in
25 there.

http://legacy.library.ucsf.edu/ad/dfp07a00/pdf Source: tobaccoindustrydocuments.ucsf.edu/docs/gjxl0001

MR. HOLFORD: Could I see what he's handed you in those files, please?

MR. RILEY: You want to see the rest of the -- This is not his. That's mine.

MR. HOLFORD: I'm sorry.

A The pages may be in some of the other materials.

Q Well, that's why I asked that question. What other materials ---

MR. DAVID: You can look at it. There's nothing in here.

Q It wouldn't be with your CV, would it?

A No. I simply -- I assume you can produce a set of pages 1, 6, and 7 and we can take a look at them. 6 and 7. Excuse me.

Q Doctor, why don't you put that back together so we don't get it confused.

A Okay. Good idea.

Q You mentioned that those papers that you have are stapled in the way in which you received them from Mr. Holford; is that correct?

A Well, I'm really not sure about that. They seem to have numerous staples and staple

http://legacy.library.ucsf.edu/ad/dfp37a00/pdf
Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

1 holes; so, I can't be certain of that.
2 MR. SHEFFLER: Off the
3 record.
4
5 (AT THIS TIME THERE WAS A
6 BRIEF OFF-THE-RECORD DISCUSSION,
7 AFTER WHICH THE PROCEEDINGS
8 RESUMED AS FOLLOWS:)
9
10 (By Mr. Sheffler)
11 Q Let me show you, Doctor, page 1, 6, and
12 7 of a document titled "Plaintiffs' Answers and
13 Objections to Council for Tobacco
14 Research-U.S.A., Inc.'s First Set of
15 Interrogatories to Plaintiffs." Have you ever
16 seen that before?
17 A Well, I've certainly seen page 1.
18 Q Doctor, you seem to be puzzled by the
19 fact that it doesn't go sequentially in terms of
20 the text.
21 A Well, I was just looking at pages 1, 6,
22 and 7; and I was wondering about pages 2 through
23 5. And we have page 3 in here somewhere.
24 Q I take it by your puzzlement, Doctor,
25 that you ---

http://legacy.library.ucsf.edu/id/dfp07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

A (Interrupting) I'm not puzzled.

Q --- have not seen the pages 1, 6, and 7 in that form before?

A I wouldn't say that.

Q Well, did you; or didn't you?

A You're taking it incorrectly.

Q Have you, or have you not? After you've reviewed those three pages, have you or have you not seen those pages before today?

A Given that I said in my letter of March 1, 1993 that I saw these pages, I expect that I saw them. I don't particularly recall having seen them.

Q Just so the record is clear ---

A (Interrupting) I believe that I saw those pages.

Q You believe that you saw those pages because ---

A (Interrupting) Because it says here.

Q Let me finish my question. You believe you saw the pages because you said you saw three pages numbered 1, 6, and 7. These happen to be three pages numbered 1, 6 and 7; but you have no independent recollection that these, in fact, are copies of the pages that you saw?

http://legacy.library.ucsf.edu/ad/dfp37a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

A That's correct. We certainly do know that I saw page 1 since I had it in my file here; and we know I saw page 3, which is not listed here.

Q Again, Doctor, the pages 1, 6, and 7 were not important enough to you in your opinions that they were memorable?

A No, they were not.

Q In fact, you can't recall them at all, can you?

A They simply weren't really pertinent to me.

Q Doctor, one of the letters - I believe it's the November letter - makes mention of school records.

A That's correct.

Q Did you produce school records here today?

A Yes, I did.

Q Did you rely on those school records for your opinions in this case?

A I responded as item 1 of the letter dated November 8, 1993 that I have no comment regarding school records.

Q Which indicates you did not rely upon

http://legacy.library.ucsf.edu/tid/dfr07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

1 them for your opinions in this case?
2 A With respect to the issue of expertise
3 on nicotine dependence, no.
4 Q With respect to any issue that you're
5 prepared to testify to in this case?
6 A I wouldn't give that broad an answer.
7 Q So, they may relate to some issue that
8 you may testify about in this case; but you don't
9 know what the issue is?
10 A You may well find one.
11 Q Doctor, do you know that there are
12 other depositions in the case that you haven't
13 been provided?
14 A Other depositions from whom?
15 Q Well, I'm asking: Do you know of other
16 depositions that were taken in the Allgood case
17 other than the ones that you were provided?
18 A Well, we must assume that the pages
19 that I received which were extracted were from
20 longer depositions. In fact, I just noticed that
21 in addition to the Crainer - the few Crainer
22 pages that were highlighted, there is a longer
23 version of that here, a much more thorough
24 version. I expect there are depositions from --
25 Right here.

http://legacy.library.ucsf.edu/tid/dfp37a00/pdf Source: tobacco industry documents ucsf.edu/docs/gjxl0001

Q But was there a Crainer ---

MR. HOLFORD: (Interrupting)

He's indicating Exhibit 2.

Q There's Crainer excerpts in Exhibit 2. Was there another Crainer excerpt?

A Those are Brown. I'm sorry. And I expect there are depositions of expert witnesses, but I have not seen those.

Q Do you know, Doctor, that there are other depositions than the excerpts and transcripts that you were provided?

A I don't know the details. I know that Mr. Holford had said that he was going to talk to, had talked to - and I'm not sure which - some other people who had known Sam Allgood. If he did and if there are depositions, I do not have those.

Q Have you asked Mr. Holford to give you all the depositions in this case that relate to Sam Allgood?

A No, I have not. No, I have not.

Q Did you have any discussion with him at all about other materials that you may want to look at?

A I expect we had that conversation early

http://legacy.library.ucsf.edu/tid/dfp07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

on. And I think I must have been given what I had asked for. I did not ask for depositions - additional depositions. I had a substantial pile.

Q You had enough to make a conclusion about Mr. Allgood with a reasonable degree of professional certainty?

A Yes.

Q And therefore, you did not ask Mr. Holford to give you more depositions?

A I did not.

Q Mr. Holford gave you more depositions; but that was because Mr. Holford wanted to, not because you requested them?

A That is correct.

Q At some point in your initial discussion with Mr. Holford, did you tell him that you would like a deposition of Mr. Allgood, Sam Allgood?

A I may have; and if I did, he probably reminded me that Mr. Allgood was deceased. I did not have all the dates in this case, and so I may have asked for such a thing.

Q In the Grinnell case where you testified as an expert witness, you recall that

http://legacy.library.ucsf.edu/tid/dfp37a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

1 you did see a deposition of Mr. Grinnell?
2 A That's correct.
3 Q And you relied heavily upon that for
4 your opinions?
5 A That's correct.
6 Q In this case, you did not rely heavily
7 upon the deposition of Mr. Allgood?
8 A That's correct.
9 Q In the Grinnell case, you testified
10 that it's difficult to make a psychological
11 diagnosis on someone after death. Do you recall
12 that testimony?
13 A Did I use those words?
14 Q Pretty close.
15 A Well, pretty close is ---
16 Q (Interrupting) Well, do you disagree
17 with that testimony? Is it difficult to make a
18 psychological diagnosis on someone after they're
19 dead?
20 A Pretty close is not close enough.
21 Q Well, I'm asking you, Doctor: Is it
22 difficult to make a diagnosis, a psychological
23 diagnosis with respect to someone who you've
24 never had an opportunity to talk to?
25 A The people who -- And we have to

http://legacy.library.ucsf.edu/tid/dfp07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

1 distinguish here between psychological diagnoses,
2 as you're using the phrase, and the issue on the
3 table today about nicotine dependence. The
4 psychological diagnoses of the more classic kind,
5 after death, I believe we call it, or forensic
6 diagnoses or whatever, are difficult to make.
7 More often they're related to psychiatric status
8 on other dimensions rather than observable
9 behavior.
10 Q Doctor, is it difficult to render an
11 opinion as to whether someone is nicotine
12 dependent if you've never seen the person and
13 have never read a deposition of the person with
14 respect to the issues involved in nicotine
15 dependence? Is it difficult?
16 A I think -- Well, I'm sure some people
17 would have great difficulty with it. Others
18 would find it somewhat less difficult. It
19 depends on one's - on the data and information
20 available.
21 MR. COWAN: Objection;
22 nonresponsive.
23 Q How about you, Doctor? Do you find it
24 difficult to do?
25 MR. HOLFORD: Objection;

http://legacy.library.ucsf.edu/tid/dfp37a00/pdf Source: tobacco industry documents.ucsf.edu/docs/gjxl0001

1 ambiguous.
2 I'd like it noted that
3 Counsel's reaction to my objection
4 was to smile, smirk, or whatever
5 you wish to call it. I wish
6 Counsel would ---
7 MR. SHEFFLER: (Interrupting)
8 Is that an objection?
9 MR. HOLFORD: I'm simply
10 making it plain on a blind record.
11 MR. SHEFFLER: Oh, come off
12 it. Come off it. We don't need
13 this. We're paying for this time.
14 I don't want to pay for you to
15 make irrelevant statements on the
16 record.
17 (By Mr. Sheffler)
18 Q Doctor, can you give me an answer to my
19 question?
20 MR. HOLFORD: Further
21 objection to Counsel's sidebar.
22 MR. SHEFFLER: Yeah.
23 A Would you like to ask your question
24 again?
25

http://legacy.library.ucsf.edu/tid/dfp37a00/pdf Source: tobacco industry documents ucsf.edu/docs/gjxl0001

1 (By Mr. Sheffler)
2 Q Sure. Do you find it difficult to
3 render an opinion about whether someone is
4 nicotine dependent or not when you've never seen
5 the person, you have no testimony of the person,
6 and there was no information for you to review
7 from a psychological work-up of the person?
8 A The problem in your question is the
9 word "difficult," frankly. I can go through
10 materials and as long as I have some reasonable
11 certainty that they're accurate -- And in this
12 case, for example, repeated information from -
13 similar information from several sources,
14 replications, as it were, it is no more or less
15 difficult than many other things that I do.
16 Q Have you ever done it before, Doctor?
17 Have you ever found that someone was nicotine
18 dependent based upon review of depositions of
19 persons that were related to the decedent?
20 A As you previously noted, I've been
21 involved in two cases. One was Grinnell. I had
22 the deposition there. This is the second case.
23 I did not have a deposition for Mr. Allgood.
24 Q The people that you reviewed -- The
25 depositions you reviewed consisted of the

http://legacy.library.ucsf.edu/tid/dfp07a00/pdf Source: tobacco industry documents.ucsf.edu/docs/gjxl0001

stepmother, the Plaintiff in this lawsuit?

A We're talking about Lillian Allgood?

Q Lillian Allgood was the stepmother, right? Is that correct? The stepmother of Sam. Was she?

A I don't know. Whatever she was. She was the person who raised him.

Q Lillian Allgood was Sam Allgood's ---

A (Interrupting) Mother.

Q Biological mother?

MR. HOLFORD: Objection. Oh, I'm sorry. Go ahead.

A She was the woman who raised him and called him her son.

Q Do you know whether she was his biological mother or not?

A I just assumed that she was.

Q You know that Sam Allgood -- In your opinion, to your knowledge, Sam Allgood spent all of his childhood with Lillian Allgood?

A That is correct.

Q Doctor, did you review the deposition of Bonnie Allgood?

A Yes, I did.

Q And was Bonnie Allgood Sam's wife?

http://legacy.library.ucsf.edu/tid/dfp07a00/pdf
Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

A Yes, she was.
Q You know that Bonnie Allgood is the Plaintiff in this case?
A I believe she's one of the Plaintiffs.
Q Do you know whether or not, when she gave her deposition, she was a Plaintiff in the case?
A I would assume she was.
Q Do you know and did you take into account that she was a Plaintiff in the case and had an interest in the outcome of the case? Did you take that into account whenever you ---
A (Interrupting) I certainly did.
Q Let me finish my question. Did you take that into account when you reviewed her deposition?
A I certainly did.
Q And how did you take that into account?
A I read the materials very carefully with that view in mind, that she had a vested interest in this case.
Q You understood she had a vested interest in this case?
A Absolutely.
Q And you understood that she understood

http://legacy.library.ucsf.edu/tid/dfp37a00/pdf Source: tobacco industry documents ucsf.edu/docs/gjxl0001

her testimony would be important in this case?
A I assume that she knew that.
Q You read her deposition with that in mind?
A Absolutely.
Q And you did the same with respect to Malcolm Allgood?
A Absolutely.
Q Who was -- What was his relationship to Sam Allgood?
A Malcolm was one of his sons, Bonnie's son, as well.
Q And you read Marcus' deposition, as well?
A That's correct.
Q And you understood that Marcus had a vested interest in the outcome of this case?
A That is correct.
Q And you understood when you read his testimony that you should consider that ---
A (Interrupting) I certainly did.
Q --- in evaluating what Marcus said about his father?
A Yes.
Q And the same way with Malcolm?

http://legacy.library.ucsf.edu/ad/dfp97a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

A That's correct.

Q And you know that all three of those parties have an interest in seeing that the facts support a finding of nicotine dependence, as you've defined the term?

A I don't know what their particular interest is with respect to nicotine dependence. You know, I don't know that they are specifically attentive to that issue; and as I recall, the fourth deposition, that of Lillian Allgood, is a person who, while certainly not impartial, I would expect, is not a Plaintiff in this case.

Q You found Lillian Allgood's deposition to be credible?

A I found them all to be credible.

Q Well, I asked you about Lillian's. Did you find Lillian Allgood's deposition to be credible?

MR. HOLFORD: Objection; asked and answered.

Q You can ignore him and just answer me. I do it. So, go ahead.

MR. HOLFORD: Again, I object to Counsel's sidebar.

Q Can you answer my question? Was

http://legacy.library.ucsf.edu/tid/dfp37a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

Lillian Allgood's testimony credible?

A Yes.

MR. SHEFFLER: Let's mark this.

(AT THIS TIME A RECESS WAS TAKEN, DURING WHICH DEFENDANT'S EXHIBIT NO. 5 WAS MARKED FOR IDENTIFICATION PURPOSES. SAME WILL BE FOUND AT THE CONCLUSION OF THIS DEPOSITION. AFTER THE RECESS THE PROCEEDINGS RESUMED AS FOLLOWS:)

(By Mr. Sheffler)

Q Doctor, let me hand you what is marked as Defendant's Exhibit 5 and ask you to identify that for the record.

A That is my CV.

Q Is that your most current CV, Doctor?

A The secretary took that off the computer yesterday. Apparently it was revised in November of '93.

Q Is there any additions that we should be aware of in terms of your appointments or your

http://legacy.library.ucsf.edu/ad/dfr07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

1 professional status?
2 A I do not have listed here that I'm the
3 president-elect for the Psychopharmacology
4 Division for the American Psychological
5 Association. I expect there's some articles
6 missing -- Well, there are some papers that we're
7 either working on or have submitted on drug
8 dependence that are not listed here. And there's
9 a specific paper on tobacco, treatment of tobacco
10 dependence or nicotine dependence that is in
11 process, as it were, and not in any final form or
12 near final - it's in a very early draft - which
13 is not listed here. So, there are at least two
14 papers on cocaine dependence, a couple of papers
15 on cocaine and pregnant women, some papers on
16 opiate dependence. I gave you two abstracts of
17 papers that have recently been submitted that was
18 specifically related to tobacco.
19 Q The other papers you mentioned on
20 cocaine dependence and what have you do not
21 contain information with respect to nicotine or
22 tobacco dependence?
23 A They contain information about the
24 general drug taking characteristics of the
25 population that was sampled. They address the

http://legacy.library.ucsf.edu/tid/dfp37a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

1 general issues of dependence on stimulants,
2 including nicotine.
3 Q With respect to the tobacco dependence
4 paper, Doctor, are you writing that yourself; or
5 is that in conjunction with others?
6 A I wrote a lengthy first draft,
7 actually, I think, a year and a half ago, which I
8 have submitted to several colleagues who had
9 expressed an interest in it and I suggested they
10 could be co-authors if they did some work and I
11 haven't seen the results of their work yet and I
12 haven't really proceeded with it.
13 Q Do you have any ---
14 A (Interrupting) I take that back.
15 There was one person who responded with great
16 enthusiasm.
17 Q Who was that?
18 A That was someone from - frankly, from a
19 PR company, Ted Klein, who you probably know.
20 Q You submitted a research paper to ---
21 A (Interrupting) No. It's a policy
22 paper.
23 Q Oh, okay.
24 A It's a policy paper.
25 Q And the subject of this policy paper is

http://legacy.library.ucsf.edu/tid/dfp37a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

1 treatment of tobacco dependence?
2 A It has to do with health care issues
3 and the provision of nicotine replacement
4 therapies.
5 Q Does it have to do with the Nicorette
6 gum?
7 A No. Well, it had to do with nicotine
8 replacement. It could have been including
9 Nicorette; but it stemmed from a meeting on
10 transdermal patches, actually.
11 Q Who else did you give the paper to?
12 A Dr. Karen Sees at the University of
13 California, San Francisco, Dr. Sharon Hall, and
14 Dr. Henningfield.
15 Q Dr. Henningfield and Dr. Jasinski have
16 done work on nicotine replacement therapies,
17 haven't they?
18 A Yes.
19 Q Did you ever discuss that kind of
20 nicotine replacement therapies with Dr. Jasinski?
21 A I've had conversations with him over
22 the years. I recall actually the most - probably
23 the most intensive discussion was a two-day
24 meeting - no - a one-day meeting some time ago,
25 '87 or so, where he and Henningfield and I were

http://legacy.library.ucsf.edu/tid/dfp37a00/pdf Source: tobacco industry documents ucsf.edu/docs/gjxl0001

1 serving as experts.
2 Q Is Dr. Jasinski an expert in nicotine
3 replacement therapies and treatment and nicotine
4 dependence?
5 A I have no idea how he would consider
6 himself. He's been -- He's an expert in the
7 general area of drug dependence.
8 Q I'm not really asking how he considers
9 himself; but do you consider him to be an expert
10 in terms of nicotine dependence, nicotine
11 dependence treatment?
12 A He is -- He has extensive experience in
13 the treatment of drug dependence, examination of
14 new medications for treatment of drug dependence,
15 and among those, is familiar with nicotine
16 replacement strategies.
17 Q You at one time consulted for Lakeside
18 Pharmaceutical?
19 A That's correct.
20 Q Did you submit this paper to anyone
21 there?
22 A No.
23 Q When was the last time you had any
24 contact with those folks?
25 A Lakeside? It's been years. Certainly

http://legacy.library.ucsf.edu/ad/dfp07a00/pdf Source: tobaccoindustrydocuments.ucsf.edu/docs/gjxl0001

not in the '90's. I mean, I may have seen them at various professional meetings, but no specific contact.

Q At the meeting that you chaired with Drs. Jasinski and Henningfield on nicotine therapies ---

A (Interrupting) We did not chair the meeting.

Q I misunderstood. The meeting that you were at with Dr. Henningfield and Dr. ---

A (Interrupting) We were expert consultants.

Q You were expert consultants. I see. One of the subjects of this meeting was nicotine therapy replacements?

A Yes. I think -- We're talking about two different meetings here.

Q Okay.

A There was the meeting that you went into Jasinski. That was the meeting that occurred in 1986, '87. The meeting which I referred to from which this paper stemmed was in the meeting in nineteen -- late '92, I believe.

Q Well, let's talk about the first one in '86. Were there any representatives from Merrell

http://legacy.library.ucsf.edu/tid/dfp07a00/pdf
Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

Dow at that meeting?
A No.
Q Were there any representatives from any of the manufacturers of nicotine replacement devices?
A There was -- That particular meeting was at the research facility of one of the manufacturers.
Q What manufacturer?
A As I recall, it was a privileged meeting.
Q Okay. Because they were developing ---
A (Interrupting) Yes.
Q --- products?
A Yes.
Q And you were an expert consultant in helping this meeting take place?
A Yes.
Q And you were consulted with respect to the development of nicotine replacement devices?
A That's correct.
Q It's a big business, isn't it, Doctor?
A Not as big as they would like it to be.
Q And they would like it to be big because they believe that there's a growing

http://legacy.library.ucsf.edu/tid/dfp07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

1 market out there for nicotine replacement
2 devices; isn't that true?
3 A You'd like my opinion?
4 Q Yeah, sure. That's why I asked.
5 A Well, you want some things with
6 certainty; and in some cases, you want opinions
7 with less certainty.
8 Q By the way, before you give me your
9 opinion with whatever certainty you want to put
10 on it, when I asked you earlier that I wanted the
11 opinions in this case with a professional degree
12 of certainty, you told me that you understood
13 that to mean ---
14 A (Interrupting) Yes.
15 Q --- that they were of a high
16 probability of being correct?
17 A That's correct.
18 Q Now, the opinion as to ---
19 A (Interrupting) Which -- By the way, at
20 a level which in court would be considered
21 certain.
22 MR. DAVID: Well, I object to
23 that comment and move to strike it
24 from the record.
25 THE WITNESS: Well, there

http://legacy.library.ucsf.edu/tid/dfp37a00/pdf Source: tobacco industry documents ucsf.edu/docs/gjxl0001

is ---

MR. DAVID: (Interrupting) I don't think you're qualified to say what would be considered certain in a court of law, Doctor.

Q Doctor, you don't really have to respond to that. That's really an objection for the trial Judge to rule upon later.

A Okay. But the distinction is worth noting.

Q What I'm asking you really deals with the meeting that you had in 1986 at some company that was engaged in the manufacture of nicotine replacement devices.

A Development.

Q Development. These companies are in the business of making money; isn't that right?

A They're in the business of making health care products.

Q For sale to the public?

A That's correct.

Q And what they want to do is make money selling nicotine therapy to the public?

A That's correct.

Q And one of the ways that helps them

http://legacy.library.ucsf.edu/ad/dfr07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

1 make this product successful is a belief on the
2 public's part that their product is needed; isn't
3 that true?
4 MR. HOLFORD: Objection;
5 speculation.
6 Q Well, you were at these meetings.
7 Didn't they have you there, Doctor, because they
8 wanted to sell this product to people who thought
9 they were addicted to tobacco and needed it?
10 A I think you've oversimplified the case.
11 Q Is that true or untrue?
12 A They recognize, as do all
13 pharmaceutical houses, that there are a wide
14 range of disorders out there, some of which are
15 treatable with medications. And as you well
16 know, there was -- At that time Merrell Dow with
17 Lakeside and so on, with Koba Pharmaceutical, had
18 Nicorette on the market, nicotine polacrilex, and
19 there was interest in developing additional
20 nicotine replacement products.
21 Q To sell to the public and make money?
22 A To sell to people who had the disorder
23 who needed treatment.
24 Q And if there wasn't a recognized
25 disorder and if it wasn't recognized that this

http://legacy.library.ucsf.edu/tid/dfp37a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

treatment was needed, they wouldn't have a market, would they?

A Well, interestingly, there actually is legislation about the concept - or about orphan drugs so that some drugs are developed when there isn't a very large market.

MR. CRUSE: That's nonresponsive, along with the last four answers; so, I'll object.

Q That really isn't the answer to my question. Isn't it true, Doctor, that the companies you were consulting with wanted a market for their product and that market was people who thought they were addicted to nicotine?

MR. HOLFORD: Objection; speculation.

A I believe they were viewing it as people who were addicted to nicotine.

Q It was good for business, Doctor, to have the public believe that they needed nicotine therapy devices; isn't that right?

A I don't think that that was the purpose of our meeting, and I can't comment on what they

http://legacy.library.ucsf.edu/tid/dfr07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

1 thought was good for business or not. I was
2 there for scientific reasons.
3 Q That's the same as in 1990? Was that
4 the last time you met with these guys?
5 A I said that meeting was 1986, '87.
6 Q And then there was another one later?
7 A 1992.
8 Q And that was along the same lines?
9 A Different.
10 Q Was anybody there representing a
11 pharmaceutical interest?
12 A It was hosted by a pharmaceutical
13 company.
14 Q And who was that?
15 A Parke-Davis.
16 Q And Parke-Davis is involved in the
17 manufacture of nicotine therapy devices?
18 A That's correct.
19 Q Are they involved in the patch?
20 A Yes.
21 Q They market it pretty extensively?
22 A I assume they do.
23 Q And again, it's helpful ---
24 A (Interrupting) That was the purpose of
25 the meeting.

http://legacy.library.ucsf.edu/tid/dfp37a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

Q It's helpful for Parke-Davis if people believe they are addicted to nicotine and need the patch to quit smoking; isn't that true?

A I think you've misstated the case.

Q That's false? You don't think it's helpful for Parke-Davis for people to believe that?

A I think you've misstated the case.

Q Well, I'm asking you: Is it true, or is it false?

A If you would like my opinion, you're misstating the case in this form: You're saying it is helpful for them to believe people are nicotine dependent. I think that's no more the case than it is helpful to have people believe that they have hypertension or cancer or any number of other diseases.

Q You don't think it's helpful for people to believe they have hypertension when, in fact, they do?

A I believe that there is the distinction "belief" versus actually having. I don't think that the company is, in particular, out there ginning up the notion of, "You are nicotine dependent." You've repeatedly used the word

http://legacy.library.ucsf.edu/tid/dfp07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

"belief," and that's the only word that I'm disagreeing with.

Q Parke-Davis wants people to know that they're nicotine dependent so they'll go buy their product; is that right?

A I can't comment on what Parke-Davis wants people to know.

Q Doctor, when we talked some time ago about your CV and your practice in 1989 in the Grinnell deposition, you told me that basically it's divided into thirds, one-third administration, one-third teaching, one-third research. Do you recall that?

A Certainly.

Q I'm trying to shorthand here.

A That's fine.

Q Doctor, let me just ---

A (Interrupting) That's fine.

Q Let me preface all these questions with this: In response to some requests that we made of Plaintiff, Plaintiffs' Counsel said that he was going to call you as an expert witness and he further directed us to the Grinnell depositions. Now, are we correct in assuming that we can rely upon the Grinnell depositions in this case, or do

http://legacy.library.ucsf.edu/tid/dfc97a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

1 we have to go through every question I asked you
2 there again?
3 MR. HOLFORD: Objection.
4 Counsel mischaracterized the
5 situation. Plaintiffs' answers
6 were in response to a question
7 that asked every statement
8 Dr. Grabowski had ever made; and
9 in answering fully, we answered
10 including the Grinnell
11 depositions, of which Plaintiffs
12 were aware of.
13 Q Do you have my question, or do you want
14 the reporter to read it back?
15 THE WITNESS: Would you read
16 it, please.
17
18 (AT THIS TIME THE COURT
19 REPORTER READ BACK THE REQUESTED
20 PORTION OF TESTIMONY.)
21
22 A You may wish to go through every
23 question that you asked before. There may be
24 some shading of differences in opinions. I
25 expect that overall, you can rely upon the broad

http://legacy.library.ucsf.edu/tid/dfp37a00/pdf Source: tobacco industry documents.ucsf.edu/docs/gjxl0001

statements that were presented in the Grinnell.

(By Mr. Sheffler)

Q I mean, it was only in 1989 that we took the deposition.

A That's correct.

Q Doctor, do you still spend about one-third of your time in research?

A Probably 50 percent. And I have to qualify that. It's about -- Probably 90 percent of my time or 80 percent of my time is devoted to research in one way or another. Some of that is, in fact, administration.

Q Now, 80 to 90 percent of your time is research or research related activities?

A That's correct.

Q But those research related activities includes administration?

A That's correct.

Q Includes getting grant monies?

A That's correct.

Q In fact, that's a large part of what a researcher has to do, is get grant monies; isn't that true?

A Periodically.

Q And you also review other people's

http://legacy.library.ucsf.edu/ad/dfp97a00/pdf
Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

research, I take it, Doctor?
A That's correct.
Q You supervise research?
A I supervise research.
Q Supervise researchers?
A Yes.
Q Doctor, how much teaching do you do now?
A Relatively little in terms of classroom type teaching. Most of the teaching is either in the form of seminars for graduate students or psychiatry residents and grand rounds presentations for residents who are in training as individuals and individual rotations in our clinic. But it's a relatively small proportion of the time.
Q How many grand round presentations did you make last semester?
A Just one.
Q And what did it involve?
A Medication, development for drug dependence.
Q What was the drug dependence that was under examination?
A It was a discussion of a range of

http://legacy.library.ucsf.edu/tid/dfc97a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

issues and medications developed, and included examples of opiate dependence, alcohol dependence, cocaine dependence and nicotine dependence.

Q For opiate dependence, what were the drugs under consideration?

A Current drugs that are -- Well, a current drug that is -- One drug that is on the market and has been widely used for a number of years is Methadone. More recently Naltrexone has been approved and Naltrexone opiate antagonists. LAAM, Levo Alpha Acetonal Methadone - I'll spell that later. But it's L-A-A-M - is now available for treatment of opiate dependence, and Buprenorphine, mixed agonist antagonist is under development.

Q How about nicotine, Doctor?

A Nicotine, two drugs have been used in the -- Well, that's a misstatement. Many tens of drugs have been used for nicotine dependence. The only two that have been found to be at all effective are Mecamylamine, which is actually an anti-hypertensive agent, which is a nicotine antagonist, and nicotine itself as a replacement.

Q Is Mecamylamine still used as a

http://legacy.library.ucsf.edu/ad/dfp37a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

1 nicotine therapy?
2 A People have used it in experiments. It
3 is not approved for that indication. There are
4 some people who promote that, specifically in the
5 case of people who have cardiovascular problems
6 and who can't tolerate nicotine very well.
7 Q Have they found that when you give
8 people Mecamylamine, which is a nicotine agonist,
9 that people still want to smoke?
10 A Dr. Murray Jarvik, at the University of
11 California in Los Angeles, did several studies;
12 and I believe he reported that it had some
13 beneficial effect on people.
14 Q But generally, hasn't it been concluded
15 that Mecamylamine is not a very useful therapy
16 device since people do not quit smoking when
17 they're given that substance?
18 A Dr. Jarvik had some data that suggested
19 that people do. Nobody has really explored that
20 further. I don't think it's a very fruitful
21 area.
22 Q Your buddy Henningfield has given
23 Mecamylamine, hasn't he?
24 A That's correct.
25 Q And did he conclude that it really -

http://legacy.library.ucsf.edu/tid/dfp37a00/pdf Source: tobacco industry documents ucsf.edu/docs/gjxl0001

even though it was an antagonist, it didn't stop people from wanting to smoke?

A That's correct.

Q In fact, when you say it's antagonist, that means that it actually blocks the effect of nicotine on the brain; isn't that true?

A That's correct. One can, in fact, depending on the various doses, override the effect of antagonists.

Q You're not suggesting that that's what happens when people want to smoke cigarettes when they have administrated to them Mecamylamine?

A Actually, what can happen when we give an antagonist is that you see an increase in the self-administration of the drug, the agonist, so that you could, in fact -- I mean, you can see this in the laboratory more readily. But if you give low doses of an antagonist, such as Naltrexone, the initial response may be an effort to essentially override that effect. The same is expected with other antagonists.

Q My question was related to nicotine; and nicotine, as you understand, has a toxic threshold?

A That's right.

http://legacy.library.ucsf.edu/tid/dfp07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

Q And it's a very small window of opportunity there?

A Yeah. But people could, in fact, when they found they were not getting the biologic effects of nicotine when given Mecamylamine, they might, in fact, increase their smoking in an effort to achieve that effect.

Q How many seminars did you give last semester?

A Three or four. That's within the medical school.

Q And what were the topics? Do you recall?

A Generally drug dependence. Often treatment of drug dependence, both basic science, applied science and treatment.

Q Who were these seminars given to?

A Colleagues, in some cases. Special interest groups in the form we have a, quote, opioid interest group at the Texas Medical Center now. Residents, other professionals.

Q You mentioned you had people rotating through your clinic.

A That's correct.

Q What is your clinic?

http://legacy.library.ucsf.edu/tid/dfp37a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

1 A It's the treatment and research
2 Addictive Behaviors Clinic. It is part of the
3 Substance Abuse Research Center.
4 Q How many people comprise the clinic?
5 A Substance Abuse Research Center has
6 about 60 people, 15 full-time faculty members and
7 some associated faculty members who are not
8 included in that 60 that exist within the
9 Department of Psychiatry. The clinic itself is
10 perhaps 25 of that 60 that I mentioned.
11 Q You're the supervisor of those 25?
12 A I'm the director of the clinic.
13 Q You supervise ---
14 A (Interrupting) I'm the director of the
15 Substance Abuse Research Center.
16 Q Do you supervise those 25 persons?
17 A Some of them directly, some indirectly.
18 Q At this clinic, is there diagnoses
19 made?
20 A Everyone who comes through goes through
21 an intensive intake process, yes.
22 Q And people make diagnoses?
23 A That's correct.
24 Q Of course, you don't make diagnoses?
25 A No, I don't.

http://legacy.library.ucsf.edu/tid/dfp37a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

Q But other people at the clinic do?
A That's correct.
Q You're still not licensed to practice?
A In the state of Texas, no. In the state of Arizona, yes.
Q But you've never practiced in the state of Arizona, and that's still true; isn't that true?
A That is correct.
Q Who does the majority of the diagnosing at your clinic?
A For the cocaine and opiate dependent studies, the screening diagnoses are made by master level therapists with confirmation by either one or two or three of my colleagues who are variously psychologists, psychiatrists.
Q That was for opiates?
A For opiates, nicotine dependence, cocaine dependence, your drug of choice, or alcohol dependence.
Q And when these diagnoses are made, is there a DSM-III-R number attached to the diagnoses?
A Yeah. These are all done with respect to studies, ongoing research studies. We do

http://legacy.library.ucsf.edu/tid/dfr07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

1 parts of the structured clinical interview, which
2 is derived from the DSM-III-R; and we simply
3 exclude certain kinds of cases from these
4 studies. I mean, it just happens to deal with
5 inclusion and exclusion criteria for research.
6 Q So, this clinic and the diagnoses of
7 participants is all for research purposes?
8 A For treatment studies. It's just that
9 the whole clinic is research oriented for the
10 development of new treatments. We have some
11 other studies that are ongoing in collaboration
12 with people in internal medicine and cardiac
13 patients who are smokers, and those are done
14 separately at another location but are done by
15 faculty who are part of this group.
16 Q Now, in the past years, since we took
17 your deposition in Grinnell, have you had
18 occasion to treat anybody for nicotine dependence
19 personally?
20 A I have not treated people for nicotine
21 dependence.
22 Q Or for any dependence, for that matter?
23 A I do not provide clinical service.
24 Q Who in the Houston area do you know is
25 involved in the treatment of substance abuse,

http://legacy.library.ucsf.edu/tid/dfp37a00/pdf Source: https://industrydocuments.ucsf.edu/docs/gjxl0001

1 diagnosis and treatment of substance abuse?
2 Strike that. That's probably too broad a
3 question. Let me narrow it down for you.
4 A Thank you.
5 Q Where would you send patients for
6 substance abuse treatment? You don't do it
7 yourself. Where would you recommend that they
8 go?
9 A We have a nationally recognized clinic
10 providing expert treatment for drug dependence;
11 so, I'd probably refer them to our clinic.
12 Q I thought your clinic was basically
13 research oriented.
14 A It is a research treatment clinic, and
15 we provide state of the science or certainly
16 state of the scientific inquiry treatments for
17 drug dependence. If people were not interested
18 in being in such research projects, I would refer
19 them appropriately.
20 Q To?
21 A It depends on, one, what their problem
22 was and what sort of conditions they were
23 interested in having for treatment, people-like
24 preferences.
25 Q Do you have your CV there, Doctor?

http://legacy.library.ucsf.edu/ad/dfp07a00/pdf Source: tobacco industry documents.ucsf.edu/docs/gjxl0001

A Uh-huh. As I said, I'm not sure all the papers are listed there.

Q Doctor, is the University of Texas Health Science Center connected with the University of Texas Medical School at Houston?

A The University of Texas recently underwent a modest name change. They call it the University of Texas-Houston Health Science Center. It is part of the University of Texas system, and it is the Health Science Center in this location.

Q Now, would it be fair to say that you are in the Department of Psychiatry and Behavioral Sciences, University of Texas Medical School?

A That is correct.

Q At Houston?

A That is correct.

Q And you think that's a fine organization? I mean, you told us it was one of the world-class deals, right?

A I was talking about our research center. I think it is a fine organization, indeed, excellent medical school.

Q And you think the Department of

http://legacy.library.ucsf.edu/tid/dfr07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

1 Psychiatry and Behavioral Science is a very fine
2 organization, as well?
3 A We have some expert people in our
4 department.
5 Q And the people who ---
6 A (Interrupting) Our Substance Abuse
7 Research Center has some expert people.
8 Q And the people who render psychiatric
9 and behavioral counseling at the Department of
10 Psychiatry and Behavioral Sciences are expert in
11 their fields?
12 A I think there's -- I expect they're
13 expert. I think there is great variation in
14 expertise. Some people are more expert than
15 others.
16 Q Doctor, let's turn to Exhibit 4, if we
17 may. That's the March 1 letter to Mr. Holford.
18 You talk in there, Doctor, about your willingness
19 to provide expert advice and testimony concerning
20 drug dependence, nicotine dependence. I'd like
21 you, sir, to give me a definition of what you
22 mean by "nicotine dependence."
23 A As you've noted, we've been through
24 this in Grinnell.
25 Q If your answer is the same, then I'll

http://legacy.library.ucsf.edu/tid/dfp37a00/pdf Source: tobacco industry documents ucsf.edu/docs/gjxl0001

1 take it.
2 A I am relying on the criteria as stated
3 in meeting three or more of the criteria in
4 DSM-III-R with reference, as well, to the
5 statements that are made in the Surgeon General's
6 report of 1988.
7 Q If a person does not meet the criteria
8 of DSM-III-R, is he nicotine dependent, in your
9 estimation?
10 A As you know, in DSM-III-R, there are
11 other conditions. There is, for example,
12 substance abuse. There are organic disorders.
13 One of the organic disorders is nicotine
14 withdrawal. But I think that if someone meets
15 the criteria in DSM-III-R -- Which I'm sure
16 you're aware is to be revised to DSM-IV, or has
17 been revised and will be issued shortly. I
18 haven't seen the final rendition of that.
19 MR. DAVID: Could we get an
20 answer to the question?
21 THE WITNESS: Are you the
22 person asking me?
23 MR. DAVID: Well, I am now;
24 and I have the right to ask you
25 questions. But, I'm sorry, but

http://legacy.library.ucsf.edu/tid/dfc07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

1 I'd like to get an answer to the
2 question instead of the speech
3 about what we're going to get in
4 the future.
5 MR. HOLFORD: And I believe
6 your remedy is when the doctor is
7 finished with his answer, you can
8 ask for a nonresponsive strike.
9 MR. RILEY: Let's just try
10 and move on.
11 MR. HOLFORD: I understand
12 that. We have a professor of
13 psychiatry here. I think he
14 knows ---
15 MR. SHEFFLER: (Interrupting)
16 And we don't want to hear the
17 lawyer for the Plaintiffs, Doug.
18 Calm down.
19 MR. HOLFORD: I have a
20 function here that the Rules
21 recognize, Mr. Sheffler; and I'm
22 performing it.
23 (By Mr. Sheffler)
24 Q Doctor, my question: If a person
25 doesn't meet three or more criteria of

http://legacy.library.ucsf.edu/tid/dfp07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

DSM-III-R - and we're talking about a smoker - is he not nicotine dependent?

MR. HOLFORD: Objection. That's a compound question. You said "three or more." Which do you mean?

MR. SHEFFLER: Are you serious?

MR. HOLFORD: Mr. Sheffler, yes, I am serious; and your question is compound. It's ambiguous, and I think you could do better. And I apologize for that remark. But it's compound and ambiguous, Mr. Sheffler.

(By Mr. Sheffler)

Q Do you remember what it was now after all that?

A As I said before, the requirement in DSM-III-R for dependence is that you meet three of the listed criteria.

Q If you meet four, you're not dependent?

A If you meet four, you are dependent. As you stated it ---

Q (Interrupting) So, it's three or more?

http://legacy.library.ucsf.edu/tid/dfr07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

A Three plus.

Q Right. Very ambiguous, isn't it?

A Not to me.

MR. DAVID: No, but it is compound.

Q Maybe they should redraft this because it's ambiguous and compound.

A It actually is not ambiguous to me. That goes to level of severity. Perhaps you could be more familiar with it. But there is a new version coming out which has some modifications, as I understand.

Q So, the answer is, Doctor, if a person does not meet three or more criteria of DSM-III-R, you would be unwilling to say that person is nicotine dependent; is that not true?

MR. HOLFORD: Objection; compound question.

A I think in diagnostic areas, there are always conditions under which you find the odd case - and I don't doubt that we'll get into examples shortly - where someone -- Well, everyone professionally would recognize that the person had the disorder. They might not necessarily clearly meet the specific criteria

http://legacy.library.ucsf.edu/ad/dfp37a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

of, for example, three; and that is always a problem.

And to the person who is objecting to my raising the issue about the DSM-IV coming out, I would simply note that that is likely to occur during the course of this case; and it's probably worth noting, because we're going to have to go back over this.

Q Have you seen the criteria for DSM-IV?

A I was actually -- Some early drafts were sent.

Q You saw early drafts?

A An early draft was sent to me.

Q And do you know who wrote that early draft?

A John Hughes was involved in the early draft.

Q Caffeine, by the way, is going to be listed as a dependent in DSM-IV, isn't it?

A Uh-huh.

Q According to the early draft that you saw?

A From what I've heard. I don't know what the current process is. The last time I was at a meeting where those issues were addressed

http://legacy.library.ucsf.edu/tid/dfc07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

1 was spring or summer of '92.
2 Q Doctor, by the way, you mentioned
3 psychoactive substance abuse as a category in
4 DSM-III-R?
5 A Yeah. That's a -- It's an additional
6 category for people who don't meet dependence.
7 Q But cigarette smoking is ---
8 A (Interrupting) Thanks for the test,
9 though.
10 Q But cigarette smoking is excluded from
11 it, isn't it? Isn't cigarette smoking excluded
12 from psychoactive substance abuse?
13 A Because of the characteristics -- I
14 don't recall that that particular sentence
15 appears in there, but because of some of the
16 characteristics of tobacco dependence or nicotine
17 dependence, it may be excluded.
18 Q Well, it says -- I'm sorry, Doctor. I
19 thought you were finished. It says, "Although
20 nicotine abuse is logically possible, according
21 to the definition of abuse noted above, in
22 practice, virtually no one who has not been
23 previously dependent on nicotine uses nicotine
24 containing substances in a maladaptive way."
25 A The problem is that people could, in

http://legacy.library.ucsf.edu/tid/dfp07a00/pdf Source: tobacco industry documents.ucsf.edu/docs/gjxl0001

1 fact, engage in that behavior. And if you would
2 like me to describe the distinction, I will.
3 Q Did Sam? Did Sam engage in that
4 behavior?
5 A Distinct from dependence? As they're
6 defining abuse in there?
7 Q As you define it.
8 A Abuse -- Abuse as defined in DSM-III-R
9 is - with respect to nicotine dependence would be
10 a specific pattern. That's also true with
11 respect to cocaine dependence and opiate
12 dependence, by the way. His pattern was
13 diagnosable and definable under the criteria for
14 dependence. As you may have noted, abuse is for
15 those people who do not meet the criteria of
16 dependence but who do use the substance.
17 Q My question to you was: Did Sam --
18 According to you, Sam met the criteria for
19 dependence?
20 A Dependence, yes.
21 Q And did Sam meet the criteria for
22 substance abuse, psychoactive substance abuse?
23 A I answered that question.
24 Q Did he use cigarettes in a maladaptive
25 way?

http://legacy.library.ucsf.edu/tid/dfp07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

A Yes.

Q Tell me how.

A I'll have to say to you that I don't think there's any particularly adaptive way to use cigarettes.

Q So, everybody who smokes uses cigarettes in a maladaptive way, according to you?

A I think that people who are nicotine dependent are certainly at risk for a number of disorders, and one could construe being at risk for diseases to be maladaptive.

MR. SHEFFLER: Can you please read back my question.

(AT THIS TIME THE COURT REPORTER READ BACK THE REQUESTED PORTION OF TESTIMONY.)

(By Mr. Sheffler)

Q Now that you've heard the question reasked, Doctor, could you give me a "yes" or "no" answer to that.

A I don't think I'm obligated to do that.

Q Well ---

http://legacy.library.ucsf.edu/tid/dfp37a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

A (Interrupting) I don't think there is such an answer.

Q Well, that's an answer. That's an answer. You cannot give a "yes" or "no" answer to such a question. That's an answer.

A The answer is that the question is more complicated than its apparent simplicity would suggest.

Q So, you cannot say "yes" or "no," every smoker uses cigarettes in a maladaptive way? You cannot answer that "yes" or "no"? Is that true?

A I would suggest that it is maladaptive to engage in cigarette smoking.

Q I understand that.

A I would also suggest that I would not use -- I'm very cautious about the use of the words "always," "never"; and I think we've been through that. Forgive me for referring to Grinnell, but you've brought it on the table. We've been through this before. And I won't hold you to it, but it's the issue of absolutes with respect to people's behavior. And I could give you examples.

Q Well, going back to Grinnell, you said that in making a conclusion about whether a

http://legacy.library.ucsf.edu/tid/dfr97a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

smoker was dependent, you'd like to review a thorough history of tobacco use, including the acquisition of tobacco use, the maintenance of tobacco use, the attempts at cessation or elimination of tobacco use?

A That's correct.

Q You'd also like to know some information about collateral drug use, about general social information and circumstances surrounding use. Is that still correct?

A That's correct.

Q And further on at another point, you said you'd like to know information about the history of use, the circumstances surrounding initiation of use.

A Exactly.

Q All of those things - acquisition, maintenance, attempts at cessation, circumstances surrounding use - are things that you look to in determining whether someone is a dependent smoker?

A Yes.

Q As you define the word "dependence"?

A Yes.

MR. DAVID: What was the last

http://legacy.library.ucsf.edu/ad/dfp37a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

one? Attempted cessation, and what was the other one?

MR. SHEFFLER: Circumstances surrounding use.

(By Mr. Sheffler)

Q Doctor, when we discussed the issue of dependence in the Grinnell case, you seemed to indicate that people who smoke and inhale cigarettes on a daily basis, daily and continual basis for a sufficient period of time will be nicotine dependent. Is that ---

MR. HOLFORD: (Interrupting) I'm going to object. I'm sorry, Mr. Sheffler. Go ahead.

Q Is that a correct statement today?

MR. HOLFORD: I'm going to object to Counsel representing what was in this deposition about four years ago. As earlier, if Counsel wants to simply ask him the question, that would not get my objection.

Q Like I said, I don't pay much attention to Mr. Holford's objections. So, could you answer my question?

http://legacy.library.ucsf.edu/tid/dfp37a00/pdf Source: tobacco industry documents ucsf.edu/docs/gjxl0001

MR. HOLFORD: Object to sidebar.

A Perhaps you'd like to restate the question.

MR. BIERSTEKER: I'm sorry. I didn't hear you, Doctor.

THE WITNESS: I said perhaps he'd like to restate the question.

A I, frankly, don't want to get involved in these things.

Q Neither do I. Rather than restate it, let's have the reporter read it back. That way we don't have to ---

A (Interrupting) No. You do have to restate it because of the way the question was asked.

Q So, you don't understand the question?

A I think that the point was well taken that you could simply ask me the question.

Q Do you recall, in 1989, testifying in the Grinnell case? Do you recall that?

A Yes.

Q Do you recall testifying at that time to the effect that if a person smokes daily, continuously over a long enough period of time

http://legacy.library.ucsf.edu/tid/dfr07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

and inhales, there's a high probability that person will be nicotine dependent?

A And my response to you is I may well have said that then and I can say that to you now with respect to nicotine dependence, yes.

Q And that opinion, you hold with a high degree of professional certainty?

A Yes, I do.

Q Now, Doctor, what percentage of the American smoking public smokes daily?

A I'd like to make a clarification to that earlier answer, and it's simply related to with inhalation to nicotine levels and so on.

Q Sure.

A Specifying that it isn't shallow inhalation, all the technical issues there.

Now, what proportion smokes daily? It's variously reported between 25 and 40 percent.

Q 25 and 40 percent of the population smokes daily?

A Of the adult population. It's variously reported. The estimates are changing over time.

Q I think maybe we have a

http://legacy.library.ucsf.edu/tid/dfr07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

1 misunderstanding. What I'm seeking to know is
2 what percentage of the adult population that
3 smokes smokes daily.
4 A Most people. And I can't give you a
5 firm percentage. Again, there are people who
6 would say that it's as high as 99 percent. Some
7 people would say 90 percent. But certainly, most
8 people - and I would say "most" means 90
9 percent - of the people who smoke cigarettes
10 smoke in a dependence producing fashion even
11 though may they may not smoke daily. I mean,
12 they may miss days for one reason or another.
13 Q If they observe the Sabbath, for
14 example, for orthodox reasons?
15 A Yeah.
16 Q But that doesn't mean they're not
17 dependent under your definition?
18 A That's correct.
19 Q So, people can miss days because of
20 work and not smoke and still be dependent?
21 A That's correct.
22 Q And people can give up cigarettes for
23 Lent for 60 days and not smoke and still be
24 dependent under your situation?
25 A Well, they have been dependent. What

http://legacy.library.ucsf.edu/tid/dfp37a00/pdf Source: tobacco industry documents ucsf.edu/docs/gjxl0001

you're describing is a condition wherein they're essentially planning relapse, I suppose. Interesting idea.

Q But under your scenario, these people are dependent?

A They are dependent while they're smoking.

Q Are they dependent while they're not smoking?

A There's a distinction -- I mean, you've gone from one day - which is what I gave you - one day a person is, in fact, dependent. I mean, if somebody is hospitalized for a day and they're under conditions or if they're at a deposition and under conditions where they can't smoke for a day or don't smoke or are kind enough not to, that doesn't mean they weren't nicotine dependent. At some point over time -- If you're talking about Lent, however long that is, two months, something, or if somebody gave cigarettes up for a longer period of time, then they're not dependent.

Q Even though they intend to go back to smoking?

A Well, it's an interesting hypothetical.

http://legacy.library.ucsf.edu/tid/dfr07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

Q Well, Doctor, I'm trying to ask questions here ---

A (Interrupting) I'm just saying it's interesting.

Q --- to give us an idea of what your opinions are. I'm not trying to interest you, although that's nice that I am.

If a person gives up cigarettes for two months and goes back to smoking, was that person dependent during the two-month period he gave them up?

MR. HOLFORD: I'm going to object to Counsel's question on this basis: If Counsel would give questions closer to matters in this case ---

MR. CRUSE: You've been coaching this witness, which is obvious from your last objection and the response he gave where he was going to answer a question and said he couldn't because you objected. I'm going to object to you just trying to lead and coach the witness. You're not making

http://legacy.library.ucsf.edu/tid/dfp07a00/pdf Source: tobacco industry documents ucsf.edu/docs/gjxl0001

1 objections that are trial
2 objections. You're giving
3 speeches and trying to ---
4 MR. HOLFORD: (Interrupting)
5 As usual, Mr. Cruse, your remarks
6 will be tested on the record.
7 And, Mr. Sheffler, before you
8 lecture Dr. Grabowski what to
9 say or not, you might get on
10 with the case.
11 MR. SHEFFLER: Let me just
12 state for the record,
13 Dr. Grabowski, that all of the
14 sidebar discussions between
15 Mr. Holford and me and any other
16 attorney in this room are
17 irrelevant to your testimony.
18 Those discussions are for some
19 later time for a Court to resolve.
20 MR. HOLFORD: He knows that,
21 Mr. Sheffler.
22 MR. SHEFFLER: So, all you
23 have to do is respond to my
24 questions. You have to ignore
25 what other people say.

http://legacy.library.ucsf.edu/tid/dfp07a00/pdf Source: tobacco industry documents.ucsf.edu/docs/gjxl0001

1 THE WITNESS: I understand
2 that, and I would be delighted to.
3 I would like to make my own
4 sidebar. My response in that
5 answer to your question was not,
6 as Mr. Cruse has suggested, that
7 somehow it was because of
8 coaching.
9 (By Mr. Sheffler)
10 Q Now, the question I had asked you -- Do
11 you have it in mind?
12 A Heavens, no. Would you like to ask it
13 again?
14 Q I was hoping you had it in mind.
15 MR. DAVID: I have it in
16 mind.
17 MR. CRUSE: 60 days, during
18 the two months ---
19 MR. SHEFFLER: (Interrupting)
20 Yeah.
21 (By Mr. Sheffler)
22 Q If a person quits smoking for two
23 months, during that period of time, is he
24 dependent?
25 A Okay. The definition of dependence, as

http://legacy.library.ucsf.edu/tid/dfp37a00/pdf Source: tobacco industry documents ucsf.edu/docs/gjxl0001

1 you know, is that during that period when
2 smoking, they are dependent. They would then,
3 during that period, have transition to nicotine
4 withdrawal symptoms; and during the period of
5 abstinence, they would be abstinent from
6 nicotine. They would not be nicotine dependent
7 during that period.
8 Q So, once you quit smoking, you're not
9 nicotine dependent?
10 A There is a period of transition; and
11 that period goes from direct physiologic
12 responses to sequela to nicotine dependence to
13 rather elaborate, somewhat more subtle behavioral
14 consequences of withdrawal. And that can go --
15 As we know from studies of opiate dependence,
16 that can go anywhere from months to years.
17 Q Well, for nicotine dependence. My
18 question is about nicotine ---
19 A (Interrupting) And I would suggest to
20 you that some of the behavioral elements could go
21 on for -- People often think of a year as some
22 sort of magical more or less cutoff in terms of
23 people successfully quitting smoking.
24 Q Well, that's really not my question
25 either. My question was dependence, Doctor.

http://legacy.library.ucsf.edu/tid/dfp37a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

What I'm really trying to seek from you is an answer to a simple question. And it may not be simple, and you can tell me that you need more information.

A I answered the question. I said while you're using the drug, you're dependent on the drug. When you stop, you'll have a series of withdrawal symptoms which may be modest or more severe in some cases. Direct physiologic response, and then there will be more subtle signs that go on for a period of time. The diagnosis, if you're getting to that, goes to the period when somebody is actually using the drug and for a period thereafter, brief period thereafter. You are not forever nicotine dependent because you were once dependent, if that's what you're asking.

Q Doctor, do some people refer to the period of transition as the period of dependence?

A Would you like to tell me who some people are?

Q Some experts in the field, such as John Hughes, who wrote the chapter on it.

A What is it you're referring to?

Q DSM-III-R.

http://legacy.library.ucsf.edu/tid/dfc07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

A Yes.

Q Would you agree with me that the criteria for ---

A (Interrupting) I don't think John Hughes wrote DSM-III-R.

Q No, he didn't. You're correct. He only wrote some of the commentary to it. That's correct.

Doctor, is it correct to say that the criteria for DSM-III-R rely heavily upon a person's desire to quit smoking?

A That's only one of the criteria.

Q Well, does DSM-III-R attempt to measure those people who are motivated to quit smoking?

A It is one of the ways in which you can measure dependence.

Q In other words, DSM-III-R tries to use criteria that would identify those people who, quote, want to quit smoking, end quote?

A It is only one of the criteria.

Q Only one of the criteria of DSM-III-R?

A (Witness nods head affirmatively.)

Q The first criteria says, "Substance often taken in larger amounts over a longer period than the period intended." That measures

http://legacy.library.ucsf.edu/tid/dfp07a00/pdf Source: tobacco industry documents ucsf.edu/docs/gjxl0001

1 whether a person wants to smoke, doesn't it?
2 A I said to you that it is among the
3 broad scope of the criteria. That is one of the
4 criteria.
5 Q That is the first one?
6 A And this is alluded to elsewhere.
7 Q It's also the second one?
8 A Uh-huh.
9 Q It's also the third one, isn't it, "a
10 great deal of time spent in activities taking the
11 substance"?
12 A That is not the same. It's distinct.
13 Q That's just an objective criteria?
14 Whether the person thinks he's spending a great
15 deal of time or not doesn't matter?
16 A Most of the criteria -- I wouldn't say
17 all, but most of the criteria can be objectified.
18 You can ask somebody how many times they've tried
19 to quit. You can sit and watch them over a long
20 period of time and see how many times they try to
21 quit.
22 Q So, if you saw a person try to quit, as
23 you put it -- In other words, a person says, "I
24 want to quit smoking. I want to quit today," and
25 he puts his cigarettes down and you see him

http://legacy.library.ucsf.edu/tid/dfp07a00/pdf Source: tobacco industry documents ucsf.edu/docs/gjxl0001

1 tomorrow and he's smoking again and the next week
2 he says the same thing, puts his cigarettes down,
3 and you see him and he's smoking and the next
4 week, he says the same thing, are those two
5 failed attempts to quit smoking?
6 A As Mark Twain is said to have said,
7 "I've done it a thousand times." People could do
8 that, yes.
9 Q But you don't need to know any more to
10 have that criteria satisfied, right? I mean, you
11 don't have to know whether the person was really
12 serious when he told you he was going to quit
13 smoking and he put them down? You don't need to
14 know if he was serious?
15 A I would have to know something about
16 the person smoking. I mean, Mr. Sheffler, if you
17 were a smoker and - or rather if you were not a
18 smoker and you walked in the room and put down a
19 pack of cigarettes and said, "I'm not going to
20 smoke any more," I'd ask you if you had stopped
21 beating your wife. I mean, it's a relevant
22 statement to say somebody has put down their
23 cigarettes. I'm make a ludicrous case there only
24 because it's the point that you need to know
25 other things about the smoker. That's why they

http://legacy.library.ucsf.edu/tid/dfp37a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

have there a list of criteria.

Q So, you need to know more than just the statement, "I want to quit smoking"?

A Absolutely. And one of the reasons for that is there are people who smoke who are clearly nicotine dependent and people who are opiate dependent and who don't say, "I want to quit."

Q And there are many smokers who say, "I want to quit," but they're not really serious about it. They're just telling the people what they want to hear; isn't that true?

A I expect for some people there is an element of that.

Q By the way, you know Lynn Kozloski?

A Yes, I do. Grinnell, 1989, we talked about him.

Q Pardon?

A Grinnell, '89, we talked about him.

Q That's right. We did. See, you do have a good memory about that.

Doctor, are your opinions about Kozloski the same as they were in '89?

A I said generally favorable things about him. I think he's a good person.

http://legacy.library.ucsf.edu/tid/dfr07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

1 Q And he's written about self-report?
2 A Many people have written about
3 self-report and there are widely opinions about
4 it in the area of drug dependence, but more
5 generally in inpatient ability to report
6 objectively their conditions.
7 Q Doctor, what do you need to know about
8 the acquisition of tobacco use to make a finding
9 of dependence?
10 A Well, I think that in one report,
11 Henningfield -- I mean, other people have
12 characterized it, but Henningfield nicely
13 characterized a pattern of increasing use. It
14 was in a fairly simple figure, actually; and it
15 reflects the increase in use over a period of
16 years, oftentimes. But what you assume ---
17 Q (Interrupting) Doctor -- I'm sorry.
18 A You look at a pattern of increasing use
19 up to - typically up to some level. For reasons
20 you mentioned earlier related to toxicity, people
21 find - or it is thought that they find an optimal
22 level of nicotine.
23 Q Is that evidence of tolerance, that
24 increasing use? Is that the same thing?
25 A Yes, it can be.

http://legacy.library.ucsf.edu/tid/dfp37a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

1 Q What else do you need to know about
2 acquisition other than evidence of tolerance?
3 A Well, you simply need to look at the
4 pattern over time of acquisition of cigarette
5 smoking. And I would note that that can be
6 affected by a variety of conditions; for example,
7 availability of cigarettes, social constraints on
8 the environment, and so on.
9 Q My question was not clear, Doctor.
10 What I'm asking is: What do you need to know
11 about acquisition of tobacco use to make a
12 finding of nicotine dependence?
13 MR. HOLFORD: I object to
14 that. Let me think a minute.
15 MR. SHEFFLER: I heard you.
16 MR. HOLFORD: I've got to
17 state my grounds, though.
18 MR. SHEFFLER: You don't have
19 to state your grounds.
20 MR. HOLFORD: Thank you.
21 A Acquisition is one element of -- I
22 think that acquisition is one element of looking
23 at a person's behavior and nicotine dependence.
24 It is not the sole source of making the
25 determination of nicotine dependence. It's

http://legacy.library.ucsf.edu/tid/dfp37a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

1 helpful to know how people came to be where they
2 are when you see that they're dependent. I can
3 give you examples. I mean, the difference is if
4 somebody has been smoking for one week and comes
5 to the doctor. He's different from somebody who
6 has been smoking for 30 years.
7 (By Mr. Sheffler)
8 Q Doctor, is age of onset important in
9 defining if a person is nicotine dependent or
10 not?
11 A It's not important in finding whether
12 or not somebody is nicotine dependent. It is
13 important in -- The likelihood of their becoming
14 nicotine dependent is related to age of onset.
15 Q In what way?
16 A There's a certain sense in the
17 literature - I mean, documented in places that
18 the younger people are when they start, again,
19 using cocaine, heroin, alcohol, nicotine and so
20 on, the more likely they are to have problems.
21 And at this point, we see kids, for example, in
22 6th grade or so who are using a variety of drugs;
23 and that early age of onset is more likely to be
24 related to subsequent problems because they
25 continue to use over a number of years. And

http://legacy.library.ucsf.edu/tid/dfp07a00/pdf Source: tobacco industry documents.ucsf.edu/docs/gjxl0001

1 there is apparently some -- I mean, there is some
2 data that have been described - I believe some of
3 it the Surgeon General's report more recently -
4 about people who take up drug use in later years,
5 in their 20's or 30's. First of all, people are
6 less likely to do it when they're older; and
7 second, they are less likely to become career
8 drug users at that point.
9 Q Let's talk about smoking. Do you have
10 any data that suggests that people become more
11 dependent on nicotine if they start smoking at a
12 younger age than an older age?
13 A No. That is not what I said. What I
14 said was they were not likely to become
15 dependent, they were not more likely to become
16 more severely dependent. They simply ---
17 MR. CRUSE: (Interrupting)
18 Object; nonresponsive.
19 MR. HOLFORD: I object to the
20 question.
21 MR. SHEFFLER: It's a little
22 late.
23 MR. HOLFORD: No, it's not.
24 I object to the question as
25 mischaracterizing his testimony.

http://legacy.library.ucsf.edu/tid/dfp07a00/pdf Source: https://industrydocuments.ucsf.edu/docs/gjxl0001

That is, quote, let's talk about smoking.

MR. SHEFFLER: Is that it?

MR. HOLFORD: Yes.

(By Mr. Sheffler)

Q Doctor, do you have any data which would suggest that people who start smoking at an early age are more likely to become dependent than people who start smoking at a later age?

A Those data are generally available in the literature, and I cannot cite a specific instance for you. I believe that that's in certain Surgeon General reports.

Q What percentage of the total male population is dependent upon cigarette smoking, in your best estimate?

A The current figures on smoking in the U.S. are around 30 percent.

Q That's not my question. My question is: What percentage of the male smoking population is dependent upon cigarettes?

A Is your question -- Your question that you seem to be asking of me is: Of those people who smoke, what percentage is dependent?

Q 30 percent?

http://legacy.library.ucsf.edu/ad/dfr07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

A No. That's -- I was answering the question you asked. I'm now telling you the question that you apparently asked earlier and are trying to ask again, which is, of those people who smoke, what percentage are nicotine dependent.

Q 90?

A And I said earlier that it was probably closer to 90. People variously estimate in that range.

Q Now, if you take a population of people who smoke, who begin smoking before the age of 18, what percentage of those people will become dependent smokers, in your estimation?

A I think that in a general estimated field, it's expected that most, again, probably 90 percent of those people, 80 or 90 percent will become dependent smokers.

Q And if you take a population of people who started smoking after age 18, in your estimate, what percentage of those people will become dependent smokers?

A I would expect that you're going to have -- If you're going from 18 onward to death, the percentage is different than if you're going

http://legacy.library.ucsf.edu/ad/dfp37a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

18 to 20 or 20 to 25.

Q Well, I'm going 18 before and 18 thereafter. Not many people start smoking in their 40's or 50's.

A You're exactly right. And that was the point, because you've asked the same question differently.

You should really, to be accurate, break it down a bit so that people between 18 and 20 or 18 and 25 are most likely to become dependent. And as you pointed out, people who start after the age of 40, for example, who try cigarettes after that age, there aren't many of them -- As far as anyone knows, they aren't likely to become dependent smokers, although it's not an impossibility.

Q Well, let me see if I've got this straight. Before the age of 18, it's your opinion that those people who experiment with cigarettes, 80 to 90 percent of them will become smoke dependent?

A I didn't use the word "experiment" there.

Q Let me ask you the question again, then. Of those people who smoke cigarettes

http://legacy.library.ucsf.edu/ad/dfr07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

1 before the age of 18, smoke any cigarettes,
2 experiment, smoke regularly, everybody who tries
3 a cigarette - because that's the way you defined
4 it later - anybody who tries cigarettes before
5 the age of 18 -- All right? Have we got that
6 population determined now?
7 A I didn't define it that way.
8 Q Okay. Good. I'll define it that way.
9 Of the population who tries cigarettes,
10 experiments, goes on to smoke or not, of that
11 population, how many of those people, what
12 percentage of them become nicotine dependent?
13 A I have seen, I think, some estimates of
14 those figures. I can't recall them at the
15 moment, but it's a substantial portion. There
16 are certainly those people who experiment, to use
17 the word you used, and who do not go on to become
18 smokers.
19 Q And that happens post 18, as well?
20 A I expect so, yes.
21 Q Can you compare the percentage of the
22 people before 18 who try cigarettes, experiment,
23 with the percentage after 18 in terms of which
24 is ---
25 A (Interrupting) Again, I think we have

http://legacy.library.ucsf.edu/tid/dfp37a00/pdf Source: https://industrydocuments.ucsf.edu/docs/gjxl0001

to distinguish between -- I'm inferring here from your statement - and I probably shouldn't - what you mean by "experiment." It could be once, twice. Some people may experiment a hundred times.

In general, it is suggested that people who engage in drug use, including tobacco use, before the age of 18 and develop their pattern of use before that time are - 18, 20, some other age in that vicinity - are more likely to become dependent than people who start later on in life. Actually, that period of time of 18 to 25 is still a pretty vulnerable period in a sense.

Q If the facts in this case were to establish that Sam Allgood started smoking at age 26 and everything else that you know about Sam from that period on is as reported in the depositions that you've reviewed, would you still give the opinion that Sam Allgood was nicotine dependent?

A Yes.

MR. DAVID: Were you going to state an objection?

MR. HOLFORD: Mr. David, the record is as it is.

http://legacy.library.ucsf.edu/ad/dfr07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

1 MR. DAVID: I thought you
2 were going to state an objection
3 and I just ---
4 MR. HOLFORD: (Interrupting)
5 Would you care to state on the
6 record what relevance that remark
7 has to the proceeding here?
8 MR. DAVID: Because you
9 started to state an objection. I
10 wondered if you had one to the
11 question.
12 Q Doctor, of what use is information
13 about acquisition important to you in
14 predetermining whether somebody can successfully
15 quit smoking?
16 A Well, acquisition typically goes to --
17 I mean, for example, age acquisition goes to the
18 issue of duration of smoking, and the longer --
19 Typically, and with exceptions, the longer
20 someone has smoked, the more severely dependent
21 they are and the more difficult it is for them to
22 quit. So, it isn't --
23 Q (Interrupting) What data ---
24 A (Interrupting) I'm sorry.
25 Q What data are you relying upon for that

http://legacy.library.ucsf.edu/tid/dfp07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

statement?

A What? That the longer people have smoked, the more difficult it is?

Q Uh-huh.

A I think you will generally find in the area of drug dependence - and actually, it's an inverted curve - that the longer any people have used any variety of drugs, they tend to become more severely dependent. They tend to use more stereotypic patterns; and thus, they have more difficulty in quitting. And that's general knowledge in the field, if you will.

Q Well, do you have any information with respect to smoking that would indicate that the longer someone smokes, the less success they have at quitting?

A There's a distinction. The longer someone smokes, the more likely they are to become dependent, and indeed, severely dependent. Now, there's an end point to that where other factors come into play.

MR. RILEY: That is unresponsive.

Q Go ahead.

A No.

http://legacy.library.ucsf.edu/tid/dfp37a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

Q Well, that doesn't answer my question. Do you have any data or not?

A I've explained to you that generally in the literature - and it's true for cocaine, opiate, nicotine, so on - that the longer someone has used the drug, the more likely they are to be dependent. The more dependent they are or the more severely dependent, the more difficulty they're going to have quitting. Now, there are factors that intervene that make it easier for some people to quit.

Q Do you have any data that would suggest that people quit at different rates? According to age?

A Age is related to duration.

Q Uh-huh. I'm asking you: Do you have data on it?

A I'm telling you that the literature is replete with discussion of the issue of essentially the more severely dependent people are, the most likely they are to have difficulty quitting. And interestingly, the longer you've been engaging in opiate use, cocaine use, and so on, the more severely dependent you're going to be, and thus, the more difficult it's going to

http://legacy.library.ucsf.edu/tid/dfp37a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

1 be. They're interrelated.
2 Q Which group has a higher rate of
3 quitting -- I'm talking about cigarette smoking.
4 Which has a higher quit rate, 50's to 60's or
5 20's to 30's?
6 A I actually don't have the data at my
7 disposal. I expect that it's probably 50's to
8 60's.
9 Q So, the smokers age 50 to 60 generally
10 have a higher quit rate than smokers age 20
11 to ---
12 A (Interrupting) You're stating that.
13 I'm not.
14 Q Well, do you have any data that says
15 that that's not correct?
16 A No, I don't. I expect it's in the
17 literature.
18 Q I expect you might find it in the 1989
19 Surgeon General's report. I suspect if you
20 looked at chapter 5, it would tell you that the
21 people who smoke -- And we're basically saying
22 all of them begin at about the same time, right?
23 You've told us that most people start smoking
24 before the age of 25.
25 A We've just moved the lines here. First

http://legacy.library.ucsf.edu/tid/dfp07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

1 of all, as I said to you, that information is
2 generally available in the literature. You were
3 asking me for specifics, and I said that I
4 couldn't quote you a verse. I have looked at
5 those reports. And now you've moved your age
6 line from 18 to 25. I mean...
7 Q Doctor, what I'm saying is if people
8 smoke cigarettes for 30 or 40 or 50 years and
9 they have a higher quit rate than people who have
10 smoked cigarettes for 10 or 15 years, that
11 suggests to me that what you've said that people
12 have a more difficult time quitting the longer
13 they smoke is wrong. Isn't it wrong?
14 A Mr. Sheffler, if you listened to my
15 answer, you would have noted in addition I said
16 that there are other conditions that intervene.
17 That is not always true.
18 Q There's other conditions that intervene
19 more frequently in the 50 and 60-year-olds?
20 A These conditions can, I think as we see
21 in this case, intervene.
22 Q Doctor, let's talk about maintenance
23 for a minute. You talked about maintenance in
24 the Grinnell case a bit, and I misunderstood. I
25 thought that tolerance was part of the

http://legacy.library.ucsf.edu/tid/dfp07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

maintenance criteria that you looked at. I understand it's part of the acquisition criteria. What do you need to know about maintenance to help you make a diagnosis of nicotine dependence?

MR. HOLFORD: Objection to Counsel testifying.

MR. SHEFFLER: I'm sorry. Could you read it back? I'll just ask it again.

(By Mr. Sheffler)

Q What do you need to know about maintenance to help you make the diagnosis of nicotine dependence?

A Chronicity and duration.

Q Anything else?

A I think those are pretty important.

Q Anything else?

A As we've been through, they're listed in DSM-III-R. And each of those - or not each. Some of those address those in various ways, but I'm just capsulizing for you that those are important issues. How regularly does someone use? Do they use continuously?

Q Please refer to whatever criteria you want there and tell me which ones refer to

http://legacy.library.ucsf.edu/tid/dfr07a00/pdf
Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

1 maintenance.
2 A Well, that word doesn't - isn't
3 particularly used in these items. The words that
4 you're using - acquisition, maintenance, and
5 elimination - are words we happen to use and that
6 you and I used in 1989 to refer to this. They
7 happen to be convenient phrases of the smoking
8 career, if you will, or drug dependence career;
9 and those words weren't used right here. In
10 DSM-III-R, I'm referring to.
11 Q Well, what are the criteria of
12 DSM-III-R that relate to maintenance?
13 A Could you -- One of the documents that
14 I gave you actually listed some things that I
15 thought were pertinent to Mr. Allgood's
16 dependence. It will save us some time.
17 Q You mean these? That's just copies of
18 DSM-III-R.
19 A Yeah, right.
20 Q That's the same thing I gave you.
21 A I'm sorry. But I had this marked.
22 Q Okay. I'm sorry.
23 A Thank you. Maintenance, as I said, is
24 the word that you and I have used and that other
25 people in the field use. It is not -- That word

http://legacy.library.ucsf.edu/tid/dfp37a00/pdf Source: tobacco industry documents.ucsf.edu/docs/gjxl0001

isn't used in this criteria.

Q What is the definition of maintenance as it applies to ---

A (Interrupting) Well, for example -- I'm not quite sure why we're going on with this. But the behavior is maintained as in a great deal of active time spent in activities necessary to get the substance, continued substance use despite knowledge of having a persistent -- All of those things go to that. Maintenance is a convenient phrase for somebody who is not currently acquiring the drug dependence, be it cocaine, opiate, or nicotine, or someone who's not currently going through an attempt to quit. It's a convenient label.

Q It's the period between acquisition and quitting? Is that what you're telling us?

A Certainly that's how we used it before, you and I.

Q Doctor, you say that criteria 3, "a great deal of time spent in activities necessary to get the substance, taking the substance, or recovering from its effects," is indicative of the period between acquisition and ---

A (Interrupting) You'll note there's a

http://legacy.library.ucsf.edu/ad/dfr07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

long list of these.

Q Which ones apply to Sam?

A Well, I think that when you consider that cigarettes were readily available, he spent -- He engaged in activities that are kind of interesting. He tended to minimize the time by buying huge quantities of cigarettes, or what I construed to be huge quantities, ten cartons at a time, I believe, of cigarettes. So ---

Q (Interrupting) So, he doesn't apply to that one?

A No, no. It was time sensitive in the sense that he would - just as some cocaine or heroin users go out and try when they can afford it - buy large batches. In his days, because he was in the Navy, he used to go to the PX to get them.

Q Do you think it was cheaper for him to buy large batches at the PX?

A I assume that cheaper, because he was buying more at that location.

Q Is it cheaper to buy cigarettes at the PX?

A It is my understanding that that's true, yes.

http://legacy.library.ucsf.edu/tid/dfr07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

Q So, when he would go there, since he ---

A (Interrupting) You mean cheaper the more he bought?

Q No. But wouldn't it be less expensive for him to make one trip than five trips to the PX if he had to drive to get there?

A That's true. I think that that issue, however, buying many, many cigarettes at one time, goes to the issue of his wanting to assure his supply. It's a familiar pattern.

Q Doctor, he could go down to the local drugstore and buy cigarettes any day of the week, couldn't he, except maybe Sunday?

A People do tend to stock up on things. And as I said, it doesn't matter whether it's alcohol users or nicotine users or cocaine users, whatever, they want them available.

Q Do you rely upon the fact that he bought ten cartons at a time from the PX as evidence to support the fact that Mr. Allgood satisfied criteria 3?

A We're talking about these key criteria in composite. I'm not talking about - particularly talking about 3. I'm saying to you

http://legacy.library.ucsf.edu/tid/dfp37a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

1 that someone who goes out and buys large
2 quantities of their drug, whatever that drug may
3 be, be it because they drive across town and they
4 get it cheaper in one place than another, is
5 responding to issues of availability, of price,
6 and so on. As you well know, people are
7 responsive to these things when they purchase all
8 manner of things, including drugs.
9 Q Some people are cheap and they want to
10 buy things cheaply, right? Mr. Holford can
11 appreciate that.
12 A I wouldn't make that statement.
13 Q But isn't that true? Maybe Sam Allgood
14 bought cigarettes ten cartons at a time because
15 he didn't want to go to the PX five times in a
16 month, he wanted to go and buy all the cigarettes
17 he needed for a month. Some people go to grocery
18 stores and buy five boxes of cereal because they
19 don't want to have to go back to the grocery
20 store. That doesn't mean they're dependent on
21 cereal, does it?
22 MR. HOLFORD: Objection;
23 argumentative. You're harassing
24 the witness.
25 Q I'm sorry if I'm harassing you. Let me

http://legacy.library.ucsf.edu/tid/dfp07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

1 withdraw the question.

2 Do people that go to the grocery store

3 and buy ten boxes of cereal at a time, are they

4 dependent on cereal? Does that indicate they're

5 dependent or cereal, or does that mean they're

6 cheap and it's less expensive to buy it that way?

7 A You can interpret it that way.

8 Q Well, I'm asking you.

9 A I'm not talking about cereal. I'm

10 talking about nicotine dependence.

11 Q Can you interpret Sam Allgood's

12 purchases that way? Would you say that he wanted

13 to buy ten cartons from the PX at one time

14 because it was cheaper to do it that way? Isn't

15 that an explanation for Sam's behavior?

16 A As I have already said I think three

17 times now ---

18 Q (Interrupting) Can you answer the

19 question "yes" or "no"?

20 A I will not answer the question "yes" or

21 "no."

22 Q Because you can't?

23 A I won't.

24 Q That's not a good one. You can say, "I

25 can't." But when I ask the questions, you've got

http://legacy.library.ucsf.edu/tid/dfp37a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

1 to either give me one of three answers: "Yes,"
2 "no," or, "I can't answer that question in that
3 way."
4 MR. HOLFORD: Mr. Sheffler, I
5 object to that. You cannot
6 instruct this witness what he must
7 do or must not do. You can go to
8 court and get an order if you
9 think he hasn't answered your
10 questions when he should have, but
11 you cannot tell this witness what
12 he must do or must not do.
13 Q Can you answer my question "yes" or
14 "no"?
15 A I've been through this twice now, three
16 times.
17 Q Can you answer my question "yes" or
18 "no"?
19 MR. HOLFORD: Objection.
20 It's repetitive.
21 Q Can you answer "yes" or "no" to the
22 question? Answer it "yes" or "no." Doctor, is
23 there anything else that you can tell me about
24 the maintenance of Mr. Allgood's smoking habits
25 that would indicate to you he was nicotine

http://legacy.library.ucsf.edu/tid/dfp07a00/pdf
Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

1 dependent? You told me about the fact he bought
2 ten cartons at a time from the PX. Anything
3 else?
4 A I'd be glad to do that. Mr. Allgood
5 smoked, first of all, depending on whose
6 reporting of times, anywhere from a pack to two
7 packs of cigarettes a day over the period from
8 about 1947 until shortly before - a couple of
9 years before his death. He is reported to have
10 always had cigarettes with him. He had his wife
11 carry them in her purse. He always had packs
12 available in various places, apparently never out
13 of easy reach. He got up in the middle of the
14 night to smoke cigarettes and would smoke pretty
15 consistently throughout the day. And I think all
16 of those factors go to the point of dependence.
17 Q Well, let's talk to ---
18 A (Interrupting) And maintenance, in the
19 word that you were using.
20 Q Those are issues that you would use to
21 say this guy is nicotine dependent. Do you have
22 to -- You're looking at your watch. Is there
23 something you needed to ---
24 MR. HOLFORD: (Interrupting)
25 I think he was looking at his cuff

http://legacy.library.ucsf.edu/tid/dfp37a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

link.

A No. Actually, I was looking at my watch; and I would think it would soon be time to take a break.

Q I was going to go to 12:30 and break for lunch, but if you'd rather stop now ---

A (Interrupting) I think it would be nice to take a break now. Or if you've got a few more questions along this line, we can finish them off. I didn't mean to interrupt you. I was just looking at my watch.

(AT 12:15 P.M. THE DEPOSITION RECESSED FOR LUNCH. AT 1:15 P.M. THE PROCEEDINGS RESUMED AS FOLLOWS:)

MR. SHEFFLER: Let's mark that as 6.

(WHEREUPON, DEFENDANT'S EXHIBIT NO. 6 WAS MARKED FOR IDENTIFICATION PURPOSES. SAME WILL BE FOUND AT THE CONCLUSION OF THIS DEPOSITION.)

http://legacy.library.ucsf.edu/tid/dfc07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

(By Mr. Sheffler)

Q Doctor, let me show you what's been marked as Defendant's Exhibit 6 and ask you to identify that for the record, please.

A It's a title page and an abstract and another title page and abstract of two papers that have been submitted to journals regarding some work we did at our clinic.

Q And that was produced today by you in response to the subpoena duces tecum that was served on you earlier?

A Yeah. I actually can get you the whole papers if you want. I mean, I just brought the abstracts. I didn't bring the whole papers.

Q Can we find that in the public literature, Doctor, or is that ---

A (Interrupting) As it says here, one has been resubmitted after review to this journal, American Journal of Drug and Alcohol Dependence; and the other has been submitted to Addictive Behaviors. I think both of them are on the verge of now being published. You know, that could be in the next year. One never knows.

Q Doctor, let me give you my card, and you can send ---

http://legacy.library.ucsf.edu/tid/dfp37a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

A (Interrupting) Copies of the manuscript?

Q If you would, copies of those papers right there.

A Sure, sure.

Q Thank you very much.

With respect to the book, New Developments in Nicotine Delivery Systems, is this publicly available?

A Yes.

Q And how would we get it?

A You'd have to ask Henningfield. I think it's the Hopkins Press, though. I mean, I would expect you can call up Johns Hopkins information and they will tell you how to get to their press. It costs $300 a copy, though.

Q Well, maybe we won't get it.

A That was a joke.

MR. RILEY: For us it will be $300.

THE WITNESS: You'll have to talk to Henningfield.

(WHEREUPON, DEFENDANT'S EXHIBIT NO. 7 WAS MARKED FOR

http://legacy.library.ucsf.edu/tid/dfc07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

IDENTIFICATION PURPOSES. SAME WILL BE FOUND AT THE CONCLUSION OF THIS DEPOSITION.)

(By Mr. Sheffler)

Q Doctor, let me show you what's been marked as Defendant's Exhibit 7 and ask you to identify that, please.

A Those are the introductory pages and the criteria for - diagnostic criteria for psychoactive substance dependence from the Diagnostic and Statistical Manual, III, Revised, III-R.

Q And do they include notations that you have made?

A Yes.

Q And are those notations, Doctor, made in conjunction with your review of the materials in this case for your opinions with respect to Sam Allgood?

A I had, in my preliminary reading of everything, gone through and circled some of these items as being possibly pertinent, yes.

Q Pertinent to Sam Allgood?

A That's correct. Well, to the case at

http://legacy.library.ucsf.edu/tid/dfp37a00/pdf Source: tobacco industry documents ucsf.edu/docs/gjxl0001

1 hand.
2 Q Not necessarily to Sam Allgood?
3 A I can never be so careful. But, yes, I
4 had put those in there as a result of that.
5 Q I'm going to hand you back the copies
6 of your letters we've already marked as
7 Defendant's Exhibits 4 and 3 and also some
8 reprints from DSM-III-R.
9 Doctor, let me give you a packet of
10 materials with a cover letter on it dated July
11 12th, 1993, from Mr. Holford, which includes a
12 listing of the Defendants' trial experts, copies
13 of information that he has been provided on them,
14 according to the ---
15 A (Interrupting) Okay.
16 Q Did you indeed get that from
17 Mr. Holford?
18 A Yes.
19 Q Did you review it?
20 A I went through the list.
21 Q And did you communicate to Mr. Holford
22 about any of the people on that list?
23 A Let's see. Yes.
24 Q Which people?
25 A J. Ray Hays.

http://legacy.library.ucsf.edu/tid/dfp37a00/pdf Source: tobacco industry documents ucsf.edu/docs/gjxl0001

Q And you know J. Ray Hays?
A Yes, I do.
Q How do you know J. Ray Hays?
A J. Ray Hays is in the Department of Psychiatry at the University of Texas.
Q Is that your department?
A I am also in that department, yes.
Q What's your relationship with Mr. Hays, or Dr. Hays?
A Dr. and Lawyer Hays. He's a colleague in the department.
Q Do you work with him?
A He's the training director for the psychology internship program, and I have some contact with him in that. He is primarily over at the Harris County Psychiatric Center, which is a hospital that's run by the department, whereas I'm in the building where we have all our research and outpatient services; so, we have only infrequent contact.
Q Doctor, in your service, in your clinic, do you do any detoxification?
A Are you talking about acute - acute medical detoxification?
Q Yes. I'm talking about your clinic.

http://legacy.library.ucsf.edu/tid/dfp37a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

1 Does your clinic have services for acute
2 detoxification?
3 A Okay. I raise that only because there
4 is - with Methadone detox, it's actually a
5 prolonged period, or opiate detox, only the first
6 part of which is done inpatient. One does a
7 longer process outpatient. We do that with some
8 patients who have been on Methadone. We do not
9 do the acute detoxification in our clinic. When
10 someone walks in the door, say cocaine dependent,
11 those are people who typically we would refer for
12 inpatient.
13 Q You don't have any facility to treat
14 alcohol detoxification?
15 A Well, I mean, our department does.
16 Those people would be put inpatient.
17 Q But not in your clinic?
18 A No, not in an outpatient clinic.
19 Q That's all you do, is outpatient work
20 there?
21 A We do outpatient work. We have some
22 ongoing alcohol protocols. If someone comes in
23 who truly requires detoxification because of
24 medical problems, such as a level of dependence
25 that would be associated with seizures in the

http://legacy.library.ucsf.edu/tid/dfp07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

event that they stopped drinking, we would immediately actually probably put those folks not in our psychiatric hospital, but rather, put them in the acute general hospital that's run by the university.

Q Do you also refer patients to the psychiatric hospitals for detoxification?

A For acute medical detoxification, no. They typically go to one of two or more general hospitals. Patients for a longer course of - in getting into that gray area when you get beyond the medical detoxification, there are patients who want to be treated on an inpatient basis or, for other psychiatric reasons - threat to self or others or something - we recommend that they go inpatient. So, some people are referred to our department on an inpatient service.

Q Have you ever referred a patient to an inpatient program for nicotine dependence alone?

A No.

Q Or has your group?

A No.

Q Anybody else on that that you recognize, Doctor?

A Let's see. I don't -- I may have come

http://legacy.library.ucsf.edu/tid/dfr07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

in contact with these people's name before. I don't know any of them. I don't recall having conversations with any of them.

Q You didn't tell Mr. Holford about them?

A I didn't have anything to say about them.

Q What did you tell him about Dr. Hays, again?

A It's actually for the first time.

I told him that I was surprised that Dr. Hays was appearing on your list of Defendants' trial experts.

Q And why did you tell him you were surprised?

A In the past, Dr. Hays had had some experience -- Years ago was more actively involved in drug abuse research, I believe. I'm really not that familiar with his history. Is not primarily focused on that and has not been for some number of years, I believe; and I was surprised that someone of his background would be - would be involved in the Defendants' case. But, you know, and nonetheless, I see that it says he's talking about human decision-making and not drug dependence.

http://legacy.library.ucsf.edu/tid/dfr07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

Q To your knowledge, does Dr. Hays treat patients?

A Dr. Hays is a clinical psychologist who does treat patients, yes.

Q And do you have any knowledge of the types of patients Dr. Hays sees?

A I think Dr. Hays characteristically sees what you might construe to be more traditional psychiatric patients, not -- He doesn't, to my knowledge, anyway, treat nicotine dependent patients. He is not, as far as I know -- I'm quite certain is not the director of either of the two units at the hospital that are actively involved with nicotine dependence. I think he generally treats adult psychiatry patients, spends a fair amount of his time in the process of running the training program and educating.

Q So, he treats patients with real psychiatric problems, not such things as nicotine dependence, right?

A I think we would all agree that these are real problems. I'm sure you meant to say that.

THE WITNESS: Off the record.

http://legacy.library.ucsf.edu/tid/dfc07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

(AT THIS TIME THERE WAS A BRIEF OFF-THE-RECORD DISCUSSION, AFTER WHICH THE PROCEEDINGS RESUMED AS FOLLOWS:)

MR. SHEFFLER: Let's mark this as 8.

(WHEREUPON, DEFENDANT'S EXHIBIT NO. 8 WAS MARKED FOR IDENTIFICATION PURPOSES. SAME WILL BE FOUND AT THE CONCLUSION OF THIS DEPOSITION.)

(By Mr. Sheffler)

Q Doctor, let me hand you what has been marked as Defendant's Exhibit 8. Would you tell us, sir, what that is?

A This is a document that was written by Mr. Holford, and we discussed it. I recall there was a -- Oh, he wanted to provide me with a copy of the "Frank Statement to Cigarette Smokers" that was published by Council for Tobacco Research some years ago. And I was signing this, simply noting that I had, in fact, seen that

http://legacy.library.ucsf.edu/ad/dfr07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

argument - or seen that material.

Q For the record, it's entitled "Declaration of John Grabowski, Ph.D., in Opposition to Defendants' Motions for Summary Judgment." Earlier in the deposition today, Doctor, you mentioned that you had signed a declaration that was prepared by Mr. Holford after you had made some changes in it.

A Yes, yes.

Q Do you recall that?

A Yes.

Q This is the one we were talking about?

A That's the one.

Q There is one change noted on this Defendant's Exhibit 8, and that's a date change. Were the changes that you were referring to that you had suggested to Mr. Holford more extensive than that?

A Yeah. There were a couple of words, as I recall, that were more -- As I recall, it was simply stronger statements that I had chose to make or different from what I chose to say, single word changes, and -- Let me see. Let me look and see if I can find it. I think -- I can't be certain about this, but I think the kind

http://legacy.library.ucsf.edu/tid/dfp07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

1 of words were things like where it says - item
2 no. 3 where it says, "I am asked and I will
3 assume that," that may have been worded somewhat
4 stronger, and I was willing to make assumptions
5 but not make outright statements. But it was of
6 that quality. They were shades and degrees
7 rather than anything frankly wrong with it.
8 Q Thank you. Let me ask you a few
9 questions about that document that we're on. In
10 paragraph 3, you're asked to assume that Sam
11 Allgood saw or heard a message put out by The
12 Council for Tobacco Research and its predecessor.
13 A Uh-huh.
14 Q Have you ever saw or heard yourself a
15 message put out by The Council for Tobacco
16 Research and its predecessor before you received
17 this document from Mr. Holford?
18 A Are you referring to this Frank
19 Statement?
20 Q Frank Statement or any statement.
21 A Well, I mean, The Council for Tobacco
22 Research and Tobacco Research Institute are
23 periodically quoted in newspapers and other
24 places, and I -- I have a piece of Congressional
25 Record, I think, or a committee hearing on

http://legacy.library.ucsf.edu/id/dfp07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

1 advertising from the early '80's that - which
2 they were referred to in some -- I think they may
3 have presented testimony to the committee. So,
4 I'm familiar with them; but I don't know about --
5 I mean, the Frank Statement, I didn't see it when
6 it was in the newspaper.
7 Q Let me get this straight. You say that
8 you saw references or statements made by The
9 Council for Tobacco Research and what was the
10 organization?
11 A And the ---
12 Q (Interrupting) Tobacco Research
13 Institute?
14 A It's the -- No. It's the Tobacco
15 Institute. I'm sorry. I'm not sure what I said,
16 but I think we're talking about the same
17 organization.
18 Q Well, I wanted to make sure.
19 A Yeah. I'm sorry.
20 Q When you say that you saw Congressional
21 testimony where The Council for Tobacco Research
22 made a presentation with respect to ---
23 A (Interrupting) No. I said I have a --
24 You were asking me whether I was familiar with
25 them. I believe that's what you were asking.

http://legacy.library.ucsf.edu/tid/dfp37a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

1 Q Yeah.
2 A And I have seen in various places over
3 the years -- I actually had some contact with the
4 Tobacco Institute in the early '80's. I have had
5 conversations with people who were actually
6 funded by The Council for Tobacco Research,
7 although I couldn't give you names. I just
8 remember having that conversation once with
9 someone. I have seen quotes and comments from
10 these two organizations at various times over the
11 years, and I have a - what I believe is from a
12 hearing regarding warning labels back in the
13 early '80's; and in that, I think there may have
14 been material from one or the other of the two
15 organizations. I just -- I haven't looked at
16 that in some time.
17 Q Can't recall? The people that you said
18 you had discussions with at some point or another
19 that may have been funded by -- Let's call it CTR
20 for short.
21 A Right.
22 Q Were these researchers?
23 A There was a person, I recall, who was
24 getting some money from them, yes.
25 Q Was it a researcher?

http://legacy.library.ucsf.edu/tid/dfp07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

A Yes. Yes, it was for research.
Q Medical science?
A Yeah. Medical behavioral science, probably psychopharmacology.
Q Legitimate research?
A I never saw the papers. I don't know. As I recall, the person was a trained researcher.
Q Legitimate trained researcher?
A No. Illegitimate. That's a joke.
Q That's a good one. Good one, Doc. Keep it up.
A No. It was a legitimate trained researcher. I don't even remember who it was. I simply remember at a meeting one time someone saying that they had received some money from them.
Q Do you have any basis, Doctor, for saying that Sam Allgood saw or heard a message put out by CTR?
A I was asked, and I was asked to assume that he saw or heard those messages. I have no personal knowledge about whether Sam Allgood saw those statements.
Q The only reason you were able to say that Sam Allgood saw or heard was because you

http://legacy.library.ucsf.edu/ad/dfp37a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

1 were assuming that as if it were a hypothetical?
2 A I was asked to assume that.
3 Q And you did assume that?
4 A As a hypothetical.
5 Q Right. Doctor, it says here, too --
6 The same sentence goes on to say that, "The
7 proofs that smoking was harmful to health weren't
8 conclusive," referring, I presume, to the message
9 put out by The Council for Tobacco Research and
10 its predecessor. Do you see where I'm reading?
11 A Yes, yes.
12 Q Is that how you interpret that
13 sentence?
14 A Right, but it goes to the second page.
15 Q But I'm going clause by clause.
16 A Okay. Okay.
17 Q Since this was written by someone else
18 other than you, I want to make sure I understand
19 and you understand what it says.
20 A Okay. Fine.
21 Q The second - third clause in that
22 sentence ---
23 A (Interrupting) "Proofs that smoking
24 was harmful to health weren't conclusive."
25 Q What did you understand that to refer

http://legacy.library.ucsf.edu/tid/dfp37a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

to?

A Oh, well, that was the gist of this document that was attached, which was "A Frank Statement to Cigarette Smokers," and frankly, as well, equally frank, the similar sorts of things that have been put out - had been put out over the years regarding inconclusive evidence.

Q By The Council for Tobacco Research?

A Yes.

I say that advisably. By various organizations. I couldn't give you, as they say, chapter and verse on whether it was this or the Tobacco Institute.

Q Can you tell me, Doctor, as best you recall, what you have seen put out by the Tobacco Research Council?

A Typically ---

Q (Interrupting) I meant The Council for Tobacco Research. I misstated. Can you tell me what you have seen that was put out by The Council for Tobacco Research?

A I can't make an absolute statement about that.

Q Where have you seen these things?

A Over the years, there have been in the

http://legacy.library.ucsf.edu/tid/dfc97a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

1 newspapers statements typically in response to
2 the issuance, for example, of Surgeons General
3 reports and other specific findings. When a
4 paper appears in the New England Journal or in
5 other places, it gets some widespread publicity.
6 There are sometimes people from the various --
7 Well, from -- And I'm not sure about CTR, but
8 certainly from Tobacco Institute are interviewed
9 by reporters and asked for their opinions or the
10 institute itself puts out press releases which
11 are responsive or not, as the case may be.
12 Q And the Tobacco Institute puts out
13 press releases that are responsive or not, as the
14 case may be. You cannot, with a reasonable
15 degree of professional certainty, state today
16 that you have seen those press releases put out
17 by The Council for Tobacco Research, though?
18 A I cannot. I mean, my understanding of
19 this organization was that it was supposed to
20 separate out some of the active lobbying.
21 Q "This organization," being Tobacco
22 Institute?
23 A Council for Tobacco Research was
24 supposed to separate out and be, as I understood
25 it, less oriented to making public statements of

http://legacy.library.ucsf.edu/tid/dfp07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

1 the sort that are more commonly associated with
2 Tobacco Institute. I believe that these folks -
3 people represented here occasionally make
4 statements. If indeed they're funding research,
5 I would expect that when the research they fund
6 is published, they made comments about that.
7 Q Do you know whether or not The Council
8 for Tobacco Research made statements publicly
9 about anything other than funded research?
10 A I do not.
11 Q And you have no opinion about the
12 quality of that research, do you?
13 A I can't judge anything about it. I
14 mean, some of it might be good. Some of it might
15 be less, as is true in many areas.
16 Q And you don't know, for example,
17 whether The Council the Tobacco Research
18 co-funded research with the American Cancer
19 Society, do you?
20 A I really don't know.
21 Q You're familiar with funding processes
22 for scientific research?
23 A Yes.
24 Q And you know that oftentimes, a
25 research grant will be funded by more than one

http://legacy.library.ucsf.edu/tid/dfp07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

1 organization; isn't that true?
2 A That's true. Not oftentimes, but that
3 does occur.
4 Q Well, isn't one of the major funding
5 organizations in the country today for scientific
6 research the United States Government?
7 A They do have a big research budget. We
8 have a big research budget, you and I.
9 Q And the National Institutes of Health
10 fund an awful lot of scientific research, do they
11 not?
12 A Yes.
13 Q And do you have any idea what
14 percentage of the research fund by The Council
15 for Tobacco Research was also funded by NIH?
16 A Well, I'm not quite sure how you're
17 asking that. Since I am familiar with the way
18 research is funded, you will rarely have the same
19 project funded by two institutions. They may
20 fund different projects that are somewhat
21 similar. On rare occasion, they may actually be
22 able to agree on something and work together and
23 fund the same project. That is an
24 extraordinarily rare event.
25 MR. CRUSE: And that's

http://legacy.library.ucsf.edu/ad/dfp37a00/pdf Source: tobaccoindustrydocuments.ucsf.edu/docs/gjxl0001

extraordinarily nonresponsive; so, I'll object.

Q So, the answer is you don't know whether or not ---

A (Interrupting) Excuse me?

Q --- NIH and CTR co-funded the research studies?

A I do not know whether they specifically co-funded research projects.

Q Doctor, going on here, where it says, "Sam Allgood saw and believed the attached statement," which is the Frank Statement to Cigarette Smokers, that's, again, an assumption you were asked to make by Mr. Holford, correct?

A That's correct.

Q You cannot testify with a professional degree of certainty or any certainty that, in fact, Sam Allgood saw and/or believed the attached statement; isn't that true?

A I can say that I do not know whether or not he saw it.

Q Now, the next two clauses here, Doctor, "He said about his smoking to others that there were inconclusive proofs that it was harmful."

A Yes.

http://legacy.library.ucsf.edu/tid/dfr07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

1 Q What does that mean?
2 A I'm sorry. Where are you here?
3 Q The last part of the sentence where it
4 says, "He said about his smoking to others that
5 there were inconclusive proofs that it was
6 harmful." You were asked to assume that, Doctor?
7 A Actually, I think there are some places
8 in the depositions from several people - at least
9 one person, where he -- In that case, it was
10 Bonnie Allgood, his wife, who made statements
11 concerning his belief that he had developed a
12 shield to his lungs somehow and that he was not
13 going to be susceptible to cancer; and thus, he
14 had come to believe, apparently, that he was -
15 if, indeed, tobacco caused these diseases, he was
16 not one who was going to have them.
17 Q So, that is what you took that part of
18 this declaration to mean, that if tobacco was
19 going to cause cancer, it wasn't going to cause
20 it to Sam Allgood, in Sam Allgood's opinion?
21 A He -- I mean, if you read the
22 transcripts, or as I read the transcripts,
23 according to the people who presented his case
24 for him, the people - his wife and children and
25 so on - seemed to believe that he was not

http://legacy.library.ucsf.edu/tid/dfp07a00/pdf Source: tobacco industry documents ucsf.edu/docs/gjxl0001

1 susceptible to diseases caused by - specifically
2 diseases caused by smoking.
3 Q Doctor, did he get that belief ---
4 MR. HOLFORD: (Interrupting)
5 Excuse me. Were you through?
6 Q --- from the Frank Statement?
7 MR. HOLFORD: Pardon me,
8 Mr. Sheffler. Were you through
9 with your last statement?
10 A I was simply going to make the
11 observation that the fact that confronted with
12 some of the problems that he did seem to be
13 having, one might have expected him to seek help
14 or stop, and he didn't do that.
15 MR. SHEFFLER: Move to strike
16 as nonresponsive.
17 MR. CRUSE: Nonresponsive.
18 (By Mr. Sheffler)
19 Q Doctor, again, let me ask the question.
20 Did Sam Allgood's belief, understanding,
21 rationalization, or whatever it might be called
22 that he had a shield to protect him from cancer
23 caused by smoking, do you believe that that was
24 due to reading the Frank Statement?
25 A I think that, rather, this is

http://legacy.library.ucsf.edu/tid/dfp37a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

representative of a broad array of things.

Q Why do you look at Mr. Holford when you say that?

A I wasn't looking at him.

MR. CRUSE: He was waiting for me to say "nonresponsive," because he's giving a nonresponsive answer.

A I think -- It is my understanding that this is representative of many things that have been in the press over the years. I don't think -- Or at least I certainly look at it this way. I mean, this happens to be a rather stellar example of such a statement, but there have been many such statements.

MR. RILEY: Nonresponsive.

Q Let's talk about the stellar example. Show me where in the Frank Statement it says, "Sam Allgood, don't worry about smoking. You've got a shield." Show me where it says that.

A You and I both know that that's not what this is about.

Q Well, my question to you ---

A (Interrupting) This was to the American public. It appeared in a public

http://legacy.library.ucsf.edu/ad/dfp37a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

1 newspaper, many American newspapers.
2 Q My question to you, Doctor, was: Did
3 Sam Allgood come to his belief or rationalization
4 or whatever it is that he had a shield that would
5 protect him from cancer caused by smoking, did he
6 come to that belief on the basis of reading a
7 statement like the Frank Statement?
8 A A statement like the Frank Statement,
9 quite possibly.
10 Q A statement like the Frank Statement
11 that says, as the Frank Statement does, "Recent
12 reports on experiments with mice have given wide
13 publicity to a theory that cigarette smoking is
14 in some way related to cancer with the lung in
15 human beings." If he read that, that would tell
16 him that he had a shield against cancer from
17 smoking?
18 MR. HOLFORD: Objection.
19 Counsel, you're mischaracterizing
20 his testimony. He said the whole
21 statement.
22 MR. RILEY: Your objection is
23 on the record. That's all you're
24 entitled to.
25 MR. HOLFORD: You read the

http://legacy.library.ucsf.edu/tid/dfp37a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

top paragraph of it.

MR. SHEFFLER: No kidding. I'll read every part of it.

(By Mr. Sheffler)

Q Where does it say in here that Sam Allgood or anybody has a shield against cancer? Let me withdraw that.

MR. DAVID: I think it was a good question.

Q I don't want to be unfair with you, Doctor.

MR. DAVID: I object to you withdrawing the question.

MR. SHEFFLER: I'll ask it again, Joe.

(By Mr. Sheffler)

Q You understand, Doctor, that there is an allegation in this case that this statement was a fraud that was committed upon Mr. Allgood which led him to change his behavior in reliance upon it. That's a claim that's made by the Plaintiff that this man represents, Mr. Holford.

A I'm not the Plaintiff.

Q I know. Bonnie is.

MR. HOLFORD: And he's not my

http://legacy.library.ucsf.edu/tid/dfr07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

witness on that. Dr. Paley is.

Q You understand that that claim has been made?

MR. HOLFORD: Dr. Paley is my witness on that, Mr. Sheffler.

MR. SHEFFLER: Shut up. I didn't ask you a question.

MR. HOLFORD: Well, you ought to know.

MR. RILEY: Is he not going to offer testimony about the Frank Statement?

MR. HOLFORD: He's not -- What he ---

MR. RILEY: (Interrupting) Is he not going to offer testimony about the Frank Statement?

MR. HOLFORD: Mr. Riley, you can read the declaration and his affidavit and what I've published.

MR. RILEY: Well, we have; and that's why we're asking the questions.

MR. HOLFORD: He's not

http://legacy.library.ucsf.edu/tid/dfr97a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

published anything about a fraud. Dr. Grabowski hasn't published anything about a fraud. Dr. Paley has. And you've examined him on it.

(By Mr. Sheffler)

Q Anyways, now that Mr. Holford has taken the position he's taken, let me ask you, Doctor, please: You understand that your declaration was given in response to a motion for summary judgment by Defendants? You understand that, don't you?

A Uh-huh.

Q That's a "yes"?

A Yes. I'm sorry.

Q You understand that that motion said there was no proof that, one, Sam Allgood saw the Frank Statement?

A I do not understand that.

Q Two -- Okay.

A (Interrupting) I mean, I don't know all of the papers that floated back and forward between you and the courts and everyone else. I have a specific interest in this kind of material. It's very specific. It has nothing to

http://legacy.library.ucsf.edu/tid/dfp07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

do with marketing issues or anything like that.
Q Thank you. Which you're not an expert in, as Mr. Holford has pointed out?
A I did not claim to be an expert in marketing.
Q Or advertising?
A Or advertising.
Q Doctor, in the Frank Statement itself, there are various representations made. You are asked to assume that Sam Allgood saw those representations. You were also asked to assume that Sam Allgood believed the Frank Statement.
A I think I was asked ---
Q (Interrupting) I'm not done with my question. Then you were asked to render an opinion as to whether or not those messages were substantial contributing factors in deterring Sam Allgood from attempting smoking cessation. Is that not correct?
A That's not correct.
Q Tell me how it's incorrect.
A Perhaps I could tell you instead what my understanding of this is, rather than trying to tell you how you're incorrect.
Q You can do that, but answer my question

http://legacy.library.ucsf.edu/tid/dfr07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

first.

A Could you try and restate your question, please?

Q Sure. You were asked to assume that Sam Allgood saw the Frank Statement.

A No, I wasn't.

Q You were not asked to assume that?

A We've been through that already.

Q Did you assume in executing this affidavit that Sam Allgood saw it?

A I explained to you already that I was asked to assume what the effect would be if he saw such statements and messages. We talked about -- You recall we just talked about it a few minutes ago as a hypothetical, and I treated it as such, if he saw this and/or related materials, I had something to say about it.

Q I understand your confusion now.

A I understand your confusion.

Q I understand your confusion.

A And I understand yours.

Q The word "confusion" and "assume" all have different meanings to different people. "Assume" here, right, means that if it's true, blah, blah, blah happens. Okay? Do you

http://legacy.library.ucsf.edu/tid/dfr07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

1 understand it that way?
2 A If it's true, then certain things
3 follow from it.
4 Q Now, now that we understand ourselves,
5 you were asked to assume, i.e., you were asked
6 to, if it were true, i.e., hypothetical, i.e.,
7 maybe it is, maybe it isn't, but for now, we're
8 going to say maybe it is, you were asked to
9 assume that Sam saw the Frank Statement, right?
10 A I think I said that ten minutes ago.
11 Q And you were asked to assume that he
12 believed the Frank Statement, because you don't
13 have any evidence one way or the other on either
14 of those things? So, you were asked to assume
15 that it was true, right?
16 A No. I was asked what would be true if
17 he assumed that.
18 Q If he assumed it?
19 A These things all follow. If he
20 believed it to be true, what would follow from
21 that.
22 Q If. All right. Let's use this. If
23 Sam Allgood saw the Frank Statement, which you
24 don't know if he did, if Sam Allgood believed it
25 if he saw it, which, of course, you could never

http://legacy.library.ucsf.edu/tid/dfp07a00/pdf Source: tobacco industry documents ucsf.edu/docs/gjxl0001

1 know without some further evidence, then it is
2 your opinion that the Frank Statement was a
3 substantial contributing factor in deterring Sam
4 Allgood from attempting smoking cessation?
5 A If you read that very carefully, it
6 says, "these messages." These messages -- That's
7 on the continuing page of item 3. "These
8 messages" go well beyond this particular
9 document.
10 Q Now, I want you for the purpose of this
11 question to limit yourself to this document.
12 Forget about these other messages, these other
13 unnamed, unidentified messages. Okay? For the
14 purposes of my question, I want you to limit
15 yourself to that document. Now, if Sam Allgood
16 had seen that document, if Sam Allgood had
17 believed that document, would it have been a
18 substantial contributing factor in deterring Sam
19 Allgood from attempting smoking cessation?
20 A And I believe, as I said earlier and
21 perhaps was not sufficiently clear, that this, in
22 composite with a number of other things, might
23 have had that consequence. I am not saying
24 anything about this particular document, but of
25 things like it. It's "these messages."

http://legacy.library.ucsf.edu/tid/dfp37a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

Q I understand that. Doctor, you've made that clear.

A Thank you.

Q Could you answer my question now? It's the same question I've asked you three times now.

A Ask me again.

Q If Sam Allgood had seen ---

MR. DAVID: (Interrupting)

He's paying for this one.

(Indicating Mr. Holford)

Q --- had seen the Frank Statement, if Sam Allgood had believed the Frank Statement, would it have been a substantial contributing factor in deterring Sam Allgood from attempting smoking cessation? Can you say that with a reasonable degree of professional certainty?

A I've said as much about this as I can. I've said this is one of many pieces of information. I simply cannot respond to that question as framed. I mean, what can I tell you?

Q Let me put it this way: If -- If there never had been a Frank Statement - okay - if it had never existed ---

A (Interrupting) Okay.

Q --- would Sam Allgood have acted any

http://legacy.library.ucsf.edu/ad/dfp37a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

differently with respect to smoking?
A If this particular item had never existed, would he have acted differently?
Q Yes.
A And only this item?
Q Yes.
A Probably not.
Q And you can say that with a reasonable degree of professional certainty?
A Yes, yes.
Q Now, if there were no other messages from CTR that Sam Allgood saw in his lifetime, including the Frank Statement, if CTR had never issued a message that Sam Allgood saw or believed, would Sam have acted any differently with respect to his smoking, in your opinion?
A I really can't comment on that. They were only one of many people, and so, you know, I -- There were other folks doing similar things.
Q I'm not talking about other folks. I'm talking about CTR.
A Well, you know, that's satisfactory to you. I'm just saying that the reason this whole issue comes up is because of the issue about - within psychiatry and psychology about

http://legacy.library.ucsf.edu/ad/dfr07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

environmental factors.

Q You're not answering my question, Doctor. And it doesn't come up because of environmental cues.

A It may not to you. That's why it comes up to me.

MR. CRUSE: Objection; nonresponsive.

Q Look, I don't really at this point in this deposition want to get into environmental cues or anything else. What I'm trying to find out, Doctor, is a very, very limited and specific thing. Can you, with a professional degree of certainty, state that Sam Allgood's smoking experience was in any way shaped, related, or dependent upon things that he saw that were generated by CTR? Can you say that with a professional degree of certainty?

A In any way? I can say it the same way I said it before. If I assume that he ---

Q (Interrupting) No. I'm not asking you to assume.

A Look, that's all I said in this document, was I assumed if he saw that, these things may have influenced his behavior. I said

http://legacy.library.ucsf.edu/tid/dfc97a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

1 nothing more certain or less certain than that.
2 Q If he saw it, these things may have
3 influenced his behavior? If he didn't see those
4 things ---
5 A (Interrupting) Then they couldn't have
6 influenced his behavior.
7 Q Can you state with a reasonable degree
8 of certainty that his behavior would have been
9 any different if he hadn't saw these things that
10 you're referring to?
11 MR. HOLFORD: Objection;
12 asked and answered.
13 A I have been through this several times
14 now.
15 Q Well, maybe it is asked and answered.
16 In that case ---
17 MR. RILEY: (Interrupting)
18 It's been asked. It's not been
19 answered.
20 Q --- you don't have to worry about
21 answering it again.
22 A You can decide what you want to do
23 about that. I have made the point that I am not
24 addressing this specific ---
25 MR. DAVID: But before I rule

http://legacy.library.ucsf.edu/tid/dfp37a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

on the objection, would you read the question back for me, please?

(AT THIS TIME THE COURT REPORTER READ BACK THE REQUESTED PORTION OF TESTIMONY.)

MR. SHEFFLER: Objection well taken, Mr. David.

MR. DAVID: Sustained. Objection sustained. Rephrase the question, Counsel.

(By Mr. Sheffler)

Q Dr. Grabowski, I'll try one more time. If Sam Allgood had not seen the CTR generated materials that we're referring to in paragraph 3 of your declaration, can you state with a reasonable degree of professional certainty that his behavior would be in any way different with respect to smoking?

A Excuse me. Isn't that the same question? I would have to see those ---

Q (Interrupting) It's a little bit better worded.

A It may well be, but I would have to see

http://legacy.library.ucsf.edu/tid/dfr07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

them essentially word by word to make the distinctions there. I think I've answered it several times. I guess what I'd like to do is if you're going to ask the same question, I'll just keep having her read back the same answers.

MR. CRUSE: You haven't answered it yet.

THE WITNESS: Well, that's your opinion.

MR. SHEFFLER: Unfortunately, we do have an arbiter for this matter; so, he'll arbitrate.

THE WITNESS: That's fine.

(By Mr. Sheffler)

Q Let's go back to the Frank Statement for a minute.

A Sure. Frank's your cousin.

Q Doctor, when was the Frank Statement issued?

A You know, I honestly don't know.

Q You have no idea when it was issued?

A I really don't know what the dates were.

Q If this was issued in 1932, would it be accurate?

http://legacy.library.ucsf.edu/ad/dfp97a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

A 1932?
Q Uh-huh.
A I don't believe your - I'm sorry - this organization existed in 1932. It wouldn't have been any more or less accurate than probably ---
Q (Interrupting) Than now?
A I mean, the accuracy of it changes over time. I believe this came out in the '50's or '60's.
Q Well, let's say it came out in 1954.
A As you recall.
Q Do you think this is inaccurate?
A I think that statements such as this give -- And this is my opinion. Statements such as this ---
Q (Interrupting) With a reasonable degree of professional certainty?
A It is my opinion as ---
Q (Interrupting) As a lay person?
A --- as a person sitting here.
Q Not as a professor of psychiatry?
A I mean, we can -- The thing is we can get into this and all the issues that you said you didn't want to discuss now, which is environmental factors and circumstances

http://legacy.library.ucsf.edu/tid/dfr07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

1 contributing to either the initiation or
2 cessation of smoking, or we can look at this and
3 you can just ask me how I feel about this as
4 someone having seen it. And I'm telling you from
5 that point of view that this is -- From what I
6 know about the literature, this is somewhat
7 misleading. It certainly, in turn, is given to
8 give people solace that what they're doing really
9 isn't harmful.
10 Q Tell me what is misleading, and then
11 tell me what gives people solace.
12 A This is just me as a person. All
13 right? That's what we're talking about. I mean,
14 I don't know why you're paying me to give this
15 opinion, but ---
16 Q (Interrupting) I really want to know,
17 Doctor, if you can say as a professional with
18 your training and expertise, whatever that may
19 be, can you say with an expert opinion that there
20 is a misleading statement in this exhibit which
21 is attached to your declaration?
22 A I'd rather address the more general
23 issue.
24 Q Doc, unfortunately, I get to ask the
25 questions because it's my deposition and I'm

http://legacy.library.ucsf.edu/tid/dfp37a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

1 paying you all this money for it, 300 bucks an
2 hour. So, tell me, where is the misleading
3 statement in this, if you can, with a
4 professional degree of certainty. If you cannot,
5 tell me that's not your field.
6 A And what I can tell you about this is
7 that there are statements in here that are
8 equivocal. There are statements in here that
9 relied -- There were certainly two camps, and I
10 would suggest to you that the larger camp was the
11 camp that was not in agreement with this
12 particular statement.
13 Q What he (indicating Mr. Riley) just
14 said was: How do you know that? But we'll get
15 to that in a minute.
16 Have you made a study of it?
17 A Look, it's really hard for me to
18 believe that we're going to go through a whole
19 thing about whether or not there have been people
20 in one group saying that tobacco is either -
21 tobacco use is either reasonably safe or at least
22 not very harmful and that there have been people
23 who said that it was harmful. It seems to me
24 that that's at least public record.
25 Q Okay. And do you know in 1954 which

http://legacy.library.ucsf.edu/tid/dfp07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

1 group was larger?

2 MR. HOLFORD: Objection;

3 asked and answered.

4 A Frankly, I haven't answered that.

5 I have no idea which group was larger.

6 Q Thank you very much. Go on.

7 MR. DAVID: Stated frankly.

8 THE WITNESS: It's a matter

9 of being earnest, actually.

10 Q Doctor, this may not be in your scope

11 of expertise or in your scope of science and

12 training; and if it's not, that's fine. What I'm

13 asking you -- Doctor, what I'm asking you is:

14 Are you prepared to testify at the trial of this

15 action with a professional degree of certainty

16 that there is a statement in the Frank Statement

17 that is false?

18 A Mr. Sheffler, I am going to tell you

19 what I told you before several times, which is

20 related to environmental aspects and determinants

21 of drug use, drug taking, cessation of drug

22 taking. This appearing to people in the world as

23 such can be a public determinant. I only

24 commented on an assumption if a person saw this,

25 what might its influence be and other messages

http://legacy.library.ucsf.edu/id/dfp07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

1 like this. And I said that such things can
2 influence people to modify or not modify their
3 behavior. We know this from other kinds of
4 research in other environments. If you're asking
5 me to go through this point by point, either here
6 or in court, I'm not going to do it. And I won't
7 testify to being an expert on what the specific
8 influences of such documents are.
9 MR. COWAN: Objection;
10 nonresponsive.
11 Q On any individual? You said ---
12 MR. HOLFORD: (Interrupting)
13 What on any individual?
14 Q You said you were not going to testify
15 about the specific statement's effect on
16 individuals; and I said, "On any specific
17 individual?"
18 MR. HOLFORD: Objection,
19 Counsel. You're testifying for
20 the witness here. Unless you want
21 to play it back.
22 A Well, you two can sort this out.
23 Q No. We're not sorting anything out. I
24 don't care what he says. Okay? He's here to try
25 to disrupt the deposition in the best way he can.

http://legacy.library.ucsf.edu/tid/dfp37a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

1 I don't care what he says. You should not be
2 influenced ---
3 MR. HOLFORD: (Interrupting)
4 Mr. Sheffler ---
5 Q (Interrupting) --- by what he says,
6 either. And if he's going to be rude and try to
7 interrupt me, then we're going to stop the
8 deposition and I'll move for a protective order.
9 MR. HOLFORD: You want to go
10 right over to court right now and
11 examine your professional behavior
12 in this deposition?
13 Q Doctor, do you have my last question?
14 A No, I don't.
15 Q Can you state with a professional
16 degree of certainty that the statements in this
17 Frank Statement to cigarette smokers had an
18 effect on any given smoker?
19 A I could under certain conditions, that
20 being whether or not I had known that they had
21 seen the document. Now, I was asked to assume
22 that the deceased Mr. Allgood had seen this or
23 other messages; and I said, given that
24 assumption, I expect it could have some effect on
25 him.

http://legacy.library.ucsf.edu/tid/dfp07a00/pdf Source: https://industrydocuments.ucsf.edu/docs/gjxl0001

Now, if you'd like me to -- If you want to bring me before a Judge and have me go through this again, I'd be glad to do it; but I think we've covered this.

Q If Sam Allgood had seen this document in 1954, would his smoking had been any different in 1955?

A I expect he would have gone on smoking.

Q Thank you.

(AT THIS TIME THERE WAS AN OFF-THE-RECORD DISCUSSION BETWEEN COUNSEL, AFTER WHICH THE PROCEEDINGS RESUMED AS FOLLOWS:)

MR. SHEFFLER: Read my last question again.

(AT THIS TIME THE COURT REPORTER READ BACK THE REQUESTED PORTION OF TESTIMONY.)

(By Mr. Sheffler)

Q Let's do that again. I'm sorry. I may have made a mistake here.

http://legacy.library.ucsf.edu/tid/dfr07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

A I understood your question, and I gave you the answer. And if you ask that question again, I will give the same answer.

Q Great.

A Great. I do understand what they're concerned about, however.

(AT THIS TIME THERE WAS A BRIEF OFF-THE-RECORD DISCUSSION BETWEEN COUNSEL, AFTER WHICH THE PROCEEDINGS RESUMED AS FOLLOWS:)

MR. HOLFORD: While they're doing that, I'm going to put on the record that Mr. Sheffler's remark on the record that my purpose here and my actions here were to do everything I could to disrupt this deposition were uncalled for personal opinions directed to me personally and it's outlandish behavior and I may well -- I'm not going to promise anything in the future, but I may well attend that to the Court

http://legacy.library.ucsf.edu/tid/dfr07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

1 for the Court's attention.
2 (By Mr. Sheffler)
3 Q Doctor, if Mr. Allgood had seen two
4 Frank Statements, would his smoking behavior be
5 any different?
6 A Again, I expect that he would have gone
7 on smoking.
8 Q And if he had not seen any statements
9 like the Frank Statement, Doctor, would his
10 smoking have been any different?
11 MR. HOLFORD: Objection;
12 asked and answered.
13 A I did answer that question several
14 times and we've gone over it for the last 20
15 minutes and you said I was not responsive. You
16 can decide that later.
17 Q We're done with the Frank Statement,
18 Doctor.
19 MR. HOLFORD: To continue my
20 last comment: Unless Mr. Sheffler
21 would care to apologize.
22 MR. CRUSE: If we're making
23 speeches on the record, I want to
24 say that the nonresponsiveness
25 of your witness and some of

http://legacy.library.ucsf.edu/tid/dfp07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

your butting in on improper objections may have led to the frustration of Mr. Sheffler and/or the other people in the room to make the comments that have been made and if your witness would give direct answers to questions instead of responding with questions, that perhaps you wouldn't have needed to make a speech at all.

MR. HOLFORD: It's all on the record, Mr. Cruse; and I'm sure it's quite contradictory to what you've just represented.

MR. CRUSE: Well, I don't agree with that.

MR. DAVID: Frankly, I don't either.

Q Dr. Grabowski, would you like to take a break?

A I would if you would. Yes.

(AT THIS TIME A BRIEF RECESS WAS TAKEN, AND THE PROCEEDINGS

http://legacy.library.ucsf.edu/tid/dfr07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

THEREAFTER RESUMED AS FOLLOWS:)

(By Mr. Sheffler)

Q Doctor, a statement again from Grinnell -- I just want to make sure we're still correct here. "I think people, including me, smoked in part because it was pleasurable and intimately related to the onset effects of nicotine; and I similarly smoked for that reason." That would apply to Sam Allgood? He was one of those ---

A (Interrupting) I'm sorry. What is this from? This is from Grinnell?

Q From your Grinnell deposition.

A And who was saying this?

Q You.

A In reference to what?

Q In reference to why people smoke.

A But the quote, could you read the quote, please? I'm sorry.

Q Sure. "I think people, including me, smoked in part because it was pleasurable and intimately related to the onset effects of nicotine; and I similarly smoked for that reason."

http://legacy.library.ucsf.edu/tid/dfr07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

A Apparently, I was talking about me?

Q But others, as well. You said, "I think people." You are a person, but there were other people, too.

A Thank you.

Q You want to see it?

A I was just asking the question. I mean, I didn't remember the context. But I think that has to do with onset effects of nicotine, yes.

Q And because it's pleasurable?

A That's true.

Q You smoked because you liked smoking?

A People -- I do not smoke.

Q You did.

A Many years ago.

Q Well ---

A (Interrupting) Okay?

Q Okay. Up until 1980, and you did because you liked it?

A Because of -- And I presume it was, as with all people I know who smoke, if you look at its effect.

Q But let me ask you this simple, simple, simple question here. And, please, if you can

http://legacy.library.ucsf.edu/tid/dfp37a00/pdf Source: tobacco industry documents.ucsf.edu/docs/gjxl0001

1 answer it "yes" or "no" -- Three answers. I'll
2 give you a multiple choice. A, "yes"; B, "no";
3 C, "I don't know," or "I can't answer it 'yes' or
4 'no.'"
5 The question: Dr. Grabowski, when you
6 smoked cigarettes, did you not like smoking?
7 A I expect I did, yes.
8 Q You expect? That's the wrong word,
9 isn't it? You expect you did? You know, don't
10 you?
11 A I did. I think I was severely
12 dependent, actually.
13 Q You were severely dependent?
14 A I was severely nicotine dependent.
15 Q And you liked smoking?
16 A As I said, I expect I did. It's hard
17 to say when those various factors separate out.
18 Q Are those various factors very
19 interrelated, in your mind?
20 A I think people can not like smoking and
21 continue to smoke when they're severely nicotine
22 dependent. I did not want to have to -- I don't
23 really feel like going through my history, your
24 history, or the history of anyone around the
25 table.

http://legacy.library.ucsf.edu/tid/dfp07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

Q You don't know mine, do you?

A Actually, I do know a little bit about some of it. You revealed some of it.

MR. DAVID: He didn't inhale.

MR. SHEFFLER: Don't tell anybody.

The WITNESS: You couldn't get it right, huh? I'm sorry. I'm, unfortunately, being dragged into this.

MR. SHEFFLER: That's okay. It's the best part of the deposition so far.

A The point was just that people can end up taking a variety of drugs - forgive me. I always have to throw that in - and come to a point where they report that while they don't enjoy being drug dependent, they continue to take the drug.

(By Mr. Sheffler)

Q But you do recognize -- And the point of my question was: You do recognize people do smoke for many reasons, and people have reported that they like smoking?

A People absolutely like smoking.

http://legacy.library.ucsf.edu/tid/dfr07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

Q Okay. And Sam ---

A (Interrupting) And they like the effects of nicotine independent of smoking.

Q But most people like to smoke cigarettes better than take nicotine gum or patches?

A Most people don't have that experience; but of those people in laboratory studies who have had IV infusions of nicotine, for example, they have reported liking the effect of nicotine.

Q Yes, but do they prefer it to smoking?

A I don't know that that question has been asked. In fact, I'm quite sure it hasn't.

Q You're talking about those use liking scales?

A Those studies, yeah.

Q I mean, is that what you're referring to?

A For example, other people have done similar studies.

Q Doctor, I notice in the Surgeon General's report there was one section there that you had marked on page 457 of studies - and you put a Post-it there - of studies authored by Wharburton.

http://legacy.library.ucsf.edu/tid/dfr07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

1 A Actually, I believe that I refer to
2 many of the papers in here. This happens to have
3 the studies outlined for Wharburton; and there
4 are a series of five of them, yes.
5 Q Why did you do that? Do you recall?
6 A I expect I was doing some sort of
7 literature search and gave those to someone, a
8 secretary, to go look them up.
9 Q Was that in connection or was that
10 after the Grinnell deposition? Do you know?
11 A This could have been done in no
12 relation to any case. I actually engage in real
13 work occasionally.
14 Q Glad somebody does.
15 Wharburton is an expert on the effects
16 of drugs on performance, is he not?
17 A Yes, he is.
18 Q And he's done a lot of work on the
19 effects of nicotine on performance, hasn't he?
20 A Yes, he has.
21 Q And Wharburton had concluded nicotine
22 has an enhancement effect on performance?
23 A That's correct.
24 Q And he's also reported that people
25 report and perceive that they concentrate better

http://legacy.library.ucsf.edu/tid/dfp07a00/pdf Source: tobacco industry documents.ucsf.edu/docs/gjxl0001

when they're smoking?

A And other people have reported that, as well.

Q And you have no disagreement with those statements?

A I think that's a profound and important issue.

Q And you think that's a profound and important issue that Wharburton has done good research on?

A I think it's an important issue that people have determined, Henningfield, as well, that you get variations in performance as a function of nicotine. And as far as I'm concerned, Wharburton has done good research. I know that there are other people who feel differently. So it goes.

Q Now, people also smoke cigarettes because they like the physical sensation of smoke; isn't that true?

A Of smoke itself?

Q Uh-huh.

A There are some researchers -- I mean, I recently reviewed grants about this and also reviewed - looked at the literature. There are

http://legacy.library.ucsf.edu/tid/dfr07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

1 some researchers who say that that contributes
2 substantially or that specific elements are
3 signals to people that they are, in fact, getting
4 adequate doses of nicotine so that smoke becomes
5 associated with nicotine.
6 Q You're familiar with Jed Rose's study
7 where he ---
8 A (Interrupting) That's exactly who I
9 was thinking of.
10 Q And that's good research?
11 A Jed Rose does impeccable research, yes.
12 Q And there are other reasons why people
13 smoke cigarettes, are there not?
14 A I did not want to imply by that that
15 people smoke just to have their throats
16 irritated.
17 Q But, I mean, that's one of the things
18 that people ---
19 A (Interrupting) But it's part of the
20 consolation of symptoms and factors.
21 Q In fact, didn't we talk in your
22 Grinnell deposition about Russell, M.A.H.
23 Russell, and where he wrote about people enjoy
24 the physical sensation of smoking?
25 A We may have. I'd have to go back and

http://legacy.library.ucsf.edu/tid/dfp37a00/pdf Source: tobacco industry documents.ucsf.edu/docs/gjxl0001

1 look.
2 Q Well, that is research that you're
3 familiar with and you agree with?
4 A I'd have to look at the literature
5 again. I haven't read his papers for some time.
6 Q Do you agree, Doctor, that people enjoy
7 smoking in certain circumstances?
8 A Yes.
9 Q And that people enjoy a cigarette more
10 after, say, a big meal?
11 A I don't know that they enjoy it more
12 after a big meal, but they certainly enjoy it. I
13 mean, more than what, you know?
14 Q That's a good point.
15 A Thank you.
16 Q Do you agree, Doctor, that people use
17 cigarettes as an assistance in social
18 interactions?
19 A I don't really know. I think people
20 use cigarettes to deliver nicotine. I don't know
21 if they use them as assistance in social
22 interactions. I think that people smoke as a
23 consequence of being in social circumstances
24 where other people are smoking. I don't know
25 that they use it specifically to enhance, as it's

http://legacy.library.ucsf.edu/tid/dfp37a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

1 seemed to be implied there.
2 Q So, you don't know any research or
3 studies -- You don't credit any studies or
4 research for the proposition that people smoke to
5 be macho, for example?
6 A Oh, I believe that there is literature
7 like that. I think that gets to some of the
8 advertising things. I'm certainly not an expert
9 in that.
10 Q We'll leave that there.
11 Doctor, what other reasons do people
12 smoke, other than what we've talked about so far?
13 A Well, if we return to the area of
14 nicotine dependence, in which I'm asserting some
15 level of expertise, or with high certainty,
16 people smoke for nicotine effects, for the direct
17 effects, for the secondary effects, which you
18 might consider to be things like performance
19 enhancement - by having the drug effect, you
20 enhance your ability at some other task, a
21 variety of performance tasks. And the parallel
22 to opiate and other forms of dependence, people
23 presumably smoke to attenuate withdrawal
24 symptoms. So, those two major features, the
25 relative strengths of either of those could vary

http://legacy.library.ucsf.edu/tid/dfp07a00/pdf Source: tobacco industry documents ucsf.edu/docs/gjxl0001

1 from time to time.
2 Q Now, let's talk about the direct
3 effects for a moment. Those effects can manifest
4 themselves as a stimulus?
5 A Uh-huh.
6 Q And they can manifest themselves as a
7 relaxant?
8 A Domino at the University of Michigan, a
9 grand old man in pharmacology, has ably addressed
10 those issues of what is essentially a biphasic
11 like effect, that people can achieve both things.
12 But, I mean, I think actually we may have gone
13 through this in Grinnell with respect to
14 stimulants and the different effects in kids
15 versus - hyperactive kids versus normal kids and
16 adults at various doses and so on.
17 Q People can use smoking as a way to calm
18 themselves in stressful situations?
19 A Yeah. There's some question about what
20 that is. It's a focusing of attention that can
21 be perceived to calm ---
22 Q (Interrupting) So, Pomerleau to the
23 side, people can use smoke ---
24 A (Interrupting) No. I said Domino.
25 Domino.

http://legacy.library.ucsf.edu/id/dfp37a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

Q How do you spell it?
A Domino?
Q Oh, like the ---
A (Interrupting) Yeah.
Q Pomerleau has written about the same thing, though, hasn't he?
A But Domino has specifically looked at EKG's and has over the years done nicotine work at various doses and he's pretty well-known in the field and he may have been the one who identified the biphasic effects.
Q The issue that I'm trying to address, though, is relaxation itself. Do I understand you correctly to be saying that there is relaxation that may be from smoking - that may be perceived from smoking over and apart from that delivered by nicotine?
A No.
Q So, the effects that people report perceiving, effects of relaxation from smoking, that's all nicotine driven?
A I'm sorry. I thought we were talking pharmacological effects. I expect there are a variety of other considerations in terms of how relaxing people find it. If you found people who

http://legacy.library.ucsf.edu/tid/dfp07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

1 only smoked in circumstances where they would
2 relax, then you would find that for them it was
3 associated with a relaxing experience. They
4 would self-report that, yes, they did it to
5 relax.
6 Q And they perceived that as one of the
7 benefits that they ---
8 A (Interrupting) Absolutely. And for
9 them, they may be maximizing that effect or that
10 aspect of the nicotine effect for themselves.
11 Q Doctor, again, let me just caution you,
12 if we both speak at the same time, it's awfully
13 hard for the reporter.
14 A And I say the same.
15 Q Now, we talked about relaxation as a
16 direct effect. You've also mentioned that
17 nicotine is a stimulant, has a direct effect from
18 smoking. Is there any other effects that people
19 report as pleasurable or as reasons for them to
20 smoke cigarettes?
21 A People report a range of things that
22 they like to do when smoking or in association
23 with smoking. We were, I believe, talking about
24 the effect of nicotine. In many respects,
25 nicotine has stimulant like effects. People

http://legacy.library.ucsf.edu/tid/dfp37a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

report those somewhat differently. As I said, there is apparently some biphasic effects; but, again, in response to that range of questions, people report relaxation, increased attention, decreased irritability. There are a variety of things that they attribute to smoking, not unlike other forms of drug dependence where people, in fact, often give properties - or report properties of the drug that aren't necessarily there pharmacologically.

Q But they've associated that with that behavior?

A That's right.

Q That's right?

A Uh-huh.

Q You said that these are - that these stimulant effects and relaxation effects and associations with positive behaviors are like other drugs?

A Yes.

Q And it's also like other non-drug things, too, isn't it? I mean, people report that they like to go running because it relaxes them?

A Well, and running, as you well know, is

http://legacy.library.ucsf.edu/tid/dfp07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

1 not a good example because there are those who
2 argue, as you recall from Grinnell, that running
3 releases endorphins, which is in itself a drug.
4 If you're asking me that association of one good
5 thing with another good thing gives that feeling
6 to people, yes.
7 Q And that happens with smoking? It's a
8 learned behavior that you associate with other
9 behaviors, and it's one of the reasons people
10 like to smoke?
11 A And when you go to the core of that
12 sort of thing with pharmacologic agents, you can
13 identify particularly what the underlying bases
14 for that is.
15 Q Right. So, we can explain why they
16 like to smoke and we can explain it in terms of
17 nicotine and what have you, that people do like
18 to smoke? That's the bottom line.
19 A People report that they like to smoke.
20 Q And they do like to smoke? Correct?
21 A That wasn't a question.
22 Q They do like to smoke, correct?
23 A I said people report that they like to
24 smoke.
25 Q Well, I know you've said that. My

http://legacy.library.ucsf.edu/tid/dfp37a00/pdf Source: tobacco industry documents ucsf.edu/docs/gjxl0001

1 question following up on that is: And that is
2 because they do like to smoke; isn't that
3 correct?
4 A Are we talking about a single person or
5 all people or ---
6 Q (Interrupting) Well, let's talk about
7 Sam Allgood.
8 A To use the things that you described
9 before, the one, the many ---
10 Q (Interrupting) I'd like to use Sam
11 Allgood. I'd like to use Sam Allgood.
12 A Okay.
13 Q Did he like to smoke cigarettes?
14 A You know, I don't know if Sam Allgood
15 liked to smoke cigarettes.
16 Q Do you know if you liked to smoke
17 cigarettes?
18 A Would I like to, no.
19 Q No, no. Do you know if you did?
20 A We've been through that, and I really
21 don't care to ---
22 Q (Interrupting) And you answered me
23 that you expect you did.
24 A Excuse me. I really -- I don't feel
25 like addressing my behaviors now. Okay? We can

http://legacy.library.ucsf.edu/tid/dfp07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

1 address yours. We can use you as an example.
2 Okay?
3 Q Doctor, I'm going to tell you, at
4 trial, I'm going to ask you those questions. I
5 know they're embarrassing for you.
6 A They aren't embarrassing.
7 Q Well, let's address them.
8 A Why don't we talk about Sam Allgood.
9 Q We did, and you said you didn't know
10 whether he liked to smoke.
11 A I did say that, because I don't have
12 any evidence that he liked to smoke.
13 Q What I'm asking you is: Did you like
14 to smoke? And we can start there, and I can see
15 what evidence would be necessary and ---
16 A (Interrupting) As I said to you, early
17 on, I did and subsequently, I did not and for
18 many years, I did not.
19 Q What would you look for to determine
20 whether or not Sam Allgood liked to smoke? What
21 would you look for?
22 A Oh, I'd need some sort - some sort of
23 report like -- It's frankly a difficult concept.
24 What I do know is Sam Allgood did smoke. He
25 smoked in what would be considered great

http://legacy.library.ucsf.edu/tid/dfp07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

quantity. He smoked a lot. He did that for many years. He suffered, it seemed, some of the side effects of the process of smoking, such as coughing. I expect he probably didn't like that a lot. So, I think there were some elements of smoking that he may well have enjoyed, particularly the drug effects as we've talked about; and he may not have enjoyed those other things. The truth is that I can't comment in particular on whether or not he liked or disliked any of those elements, because those - as I recall, at least, those issues weren't addressed in detail in the information I had.

Q Was that important to you, to determine whether Sam Allgood liked to smoke, to determine whether he was nicotine dependent?

A That isn't really critical.

Q Someone who likes smoking a great deal and doesn't want to quit because he really enjoys it can still be nicotine dependent, in your estimate, right?

A Absolutely.

Q Did Sam associate coughing with his smoking, to your knowledge?

A I really don't know.

http://legacy.library.ucsf.edu/ad/dfr07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

Q So, you don't know whether that was something Sam didn't like with respect to smoking or not?

A Well, I'm trying to recall. I'll have to -- I'm not certain whether or not in those depositions either Bonnie Allgood or her sons commented on whether or not he associated the coughing with that. Certainly they did, or at least reported that they did. And frankly, I guess I assumed that he may have vaguely had that association.

Q You assumed it was vague, or you assumed it was an association?

A I don't know what Sam Allgood had. I would expect that one might see that relationship.

Q Did Sam Allgood ever experience withdrawal?

A Sam Allgood would have had abstinence symptoms or withdrawal symptoms during that period when he quit smoking, I mean, as a specific - and rather singular example. He would have had them for several days thereafter. Whether he did earlier on in his life, for example, when he was in the Navy and if he had

http://legacy.library.ucsf.edu/ad/dfp37a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

1 been required for some reason - perhaps in the
2 presence of munitions or something - not to
3 smoke, he might have experienced it then, as
4 well. But the only evidence that I have or that
5 I can comment on really is that at that time when
6 he quit smoking he had withdrawal symptoms,
7 whether or not he identified them as such.
8 Q But you don't know what those items
9 were, because he didn't identify them?
10 A Those are not reported in any of the
11 materials.
12 Q You're positive he had withdrawal,
13 though?
14 A Given smoking at the level that he did,
15 it's frankly unimaginable that he might not have
16 had some of the more commonly reported symptoms.
17 But anything is possible.
18 Q Doctor, you have said that Sam Allgood
19 was severely nicotine dependent, in your
20 estimation; is that correct?
21 A I said nicotine dependent. I expect it
22 was pretty severe, yes.
23 Q Of the 90 percent of the smoking
24 population in America that are nicotine
25 dependent, what percentage of those are severely

http://legacy.library.ucsf.edu/tid/dfp37a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

dependent?

A I think -- I assumed -- You mentioned earlier that Hughes felt there was some ambiguity in the criteria; and that is one of the areas where there is some ambiguity. Exactly what is severe dependency? Since most people who do smoke do tend to smoke in quantity and consistently over the years, it seems to be people are severely dependent or ---

Q (Interrupting) Either they're severely dependent or they're not dependent?

A Well, what I'm saying -- You were mentioning earlier the problems with diagnosis and why there are changes in the upcoming Diagnostic Manual. So, I think most people who smoke are severely dependent by the criteria that currently exists.

Q And that's because they've smoked for a long period of time, most of them?

A Yeah.

Q Now, Doctor, of the people who have quit smoking since 1964 -- Am I missing something here?

A I'm waiting for it.

Q Of the people who have quit smoking

http://legacy.library.ucsf.edu/ad/dfp37a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

1 since 1964, what percentage of those were
2 severely dependent?
3 A I expect that many of them were
4 severely dependent.
5 Q Would you expect that up to 90 percent
6 were?
7 A Probably varying levels of severity,
8 because of duration of smoking, number of
9 cigarettes smoked per day, what their nicotine
10 levels were, what, for example, nicotine levels
11 they achieved. Apparently there are differences
12 between men and women in terms of ease of
13 cessation and so on. So, in general, I would say
14 that that process of smoking cigarettes engenders
15 severely dependent smokers. Many of those people
16 quit. But again, it's just as I think we
17 discussed in Grinnell, there are people who stop
18 using cocaine and opiate and other drugs on which
19 they're severely dependent. And we know this.
20 We know that people can simply quit using drugs
21 that ---
22 MR. CRUSE: (Interrupting)
23 The question was: Is up to 90
24 percent dependent? And the answer
25 was nonresponsive; so, I object to

http://legacy.library.ucsf.edu/tid/dfp37a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

it.

Q Basically, Doctor, do you have a percentage of the people who have quit -- Strike that.

A I simply -- I mean, I could not give you a figure that you could track down anywhere. Again, there are figures like that in the Surgeon General's report. I don't recall them.

Q It's better if I ask a question before you respond; but really, since the responses have very little to do with the questions, it's okay.

MR. HOLFORD: Objection to sidebar.

A The questions have very little to do with the topic.

Q Doctor, what is the number of people who have quit smoking since 1964? Do you have any idea?

A I really don't know what that number is currently.

Q If I were to tell you that half the people who ever smoked have quit smoking, would that number shock you?

A Half the people who ever ---

Q (Interrupting) Who ever smoked.

http://legacy.library.ucsf.edu/tid/dfp07a00/pdf
Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

1 A In the history of the earth have quit
2 smoking?
3 Q Half the people today.
4 A Today?
5 Q Half the people who have ever smoked
6 and are still alive today have quit smoking.
7 A I'd like to see that in print
8 somewhere. I mean, smoking has been around for
9 the last 4 or 500, whatever, years; and I just
10 don't know what those data look like.
11 Q You don't know whether that's ---
12 A (Interrupting) I don't know if that's
13 true or not. It may well be. You may have got
14 that from the Surgeon General's report.
15 Q If I showed it to you, you wouldn't ---
16 A (Interrupting) I don't know those
17 data. If you say there are data like that, I'd
18 be willing to look at them.
19 Q Do you know how many millions of people
20 have quit smoking since 1964?
21 A I really don't -- I couldn't give you a
22 precise figure here and now. As you said, it's
23 not a memory test. I'd have to go look it up,
24 the data available and those estimates.
25 Q Well, based upon what your

http://legacy.library.ucsf.edu/tid/dfp37a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

understanding of dependency is and based upon what your understanding of the cessation rate is and based upon all of your information, do you find that it would be surprising that there are more former smokers today than there are current smokers?

A I assume that you're drawing this out from this data?

Q Don't assume anything about my questions, Doctor. Just answer it. Is it surprising?

A Not really.

Q Are there more ---

A (Interrupting) I assume you're aware that most people that have quit smoking have done so without professional help.

Q They have?

A Yeah.

Q My Heavens.

Doctor, are there more people who are former cocaine users than current cocaine users?

A Absolutely.

Q What percentage of those have done so - have quit using cocaine without professional help?

http://legacy.library.ucsf.edu/ad/dfp97a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

A We have somewhat more difficulty getting those data. I don't know if this would be considered nonresponsive.

Q Don't worry about that.

A The source of data are more difficult because of the illegality of the substance. There are estimates about numbers of people who have used cocaine. It is clear that most people who have used cocaine have stopped using -- If you take those estimates of 30 million or 40 million people have used it at one time or another, if you take those as accurate, most people have stopped without treatment, because we don't have treatment resources to have treated 40 million people over the last whatever, 15 or 20 years.

Q And these include people who were dependent on cocaine?

A One can suspect that.

Q Some of them were?

A It's the gamut of people who we described earlier. It's people with respect to that. It has a great deal to do with issues that you haven't gone over yet.

Q Doctor, is it ---

http://legacy.library.ucsf.edu/tid/dfc07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

1 A (Interrupting) But in response, it's
2 the gamut of people, some of whom have used a
3 little and have stopped and some of whom have
4 been probably fairly severely dependent.
5 Q It's true, Doctor, that heroin users,
6 cocaine users, alcohol users have quit without
7 any medical intervention?
8 A Absolutely true.
9 Q And these include people who are very
10 severely dependent?
11 A That's correct.
12 Q They quit?
13 A That's correct.
14 Q And before they quit, they make a
15 decision to quit, do they not?
16 A I can't address the group. I really
17 don't know.
18 Q Well, is it your ---
19 A (Interrupting) It goes back to your
20 point earlier I can't address. You weren't
21 giving me any specifics about it.
22 Q Fine. Has it been your experience,
23 Doctor, or have you supervised those who do have
24 experience with treating people that most of the
25 people who successfully quit using a dependence

http://legacy.library.ucsf.edu/tid/dfp07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

1 producing substance, as you defined the term,
2 have made a decision that they want to quit?
3 A That's not true of all people.
4 Q I didn't say it was true of all people.
5 I said "most."
6 A I think it depends on the
7 circumstances. We find very different
8 populations in that regard.
9 Q Would you find it to be true that for
10 most people who have decided not to quit, but to
11 continue, that most of them continue using a
12 dependence producing substance?
13 MR. HOLFORD: Objection.
14 Counsel is assuming facts not in
15 evidence and testifying.
16 Q Can you answer that? If you decide you
17 don't want to quit, it's unlikely that you will
18 quit; isn't that true?
19 A Again, that depends on the individual
20 and the circumstances in which they find
21 themselves. If you put somebody in jail, or at
22 least in some jails, you'll find that they may
23 not want to quit, but by virtue of the jail,
24 they're forced to. In other jails, they get to
25 keep using.

http://legacy.library.ucsf.edu/tid/dfp07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

1 Q Doctor, we've talked about reasons why
2 people want to continue smoking. We've talked
3 about the pleasure they get from it. We've
4 talked about the effects that they like from
5 nicotine. We've talked about learning to use
6 smoking in pleasurable circumstances or what have
7 you. And there are reasons why people want to
8 quit, right?
9 A Yes.
10 Q Now, can you determine the degree to
11 which a person wants to smoke? Can you put it on
12 a scale? Can you say, "This person wants to
13 smoke a whole lot," or, "This person likes to
14 smoke but not as much as this guy"?
15 A There are two ways of doing that, yes.
16 Q Tell me what they are.
17 A One way is that you -- More common in
18 the clinical setting, but not the only way, is
19 that you ask people a series of questions about
20 their drug use. Another way to deal with that,
21 which we sometimes do in the laboratories, is we
22 bring people to the laboratory, people who are
23 patients, bring them to the laboratory and give
24 them the opportunity to self-administer whatever
25 drug it is that they've been taking, or drugs

http://legacy.library.ucsf.edu/tid/dfp07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

like that drug, and determine the extent to which they give themselves related doses of the drug, how they give themselves those doses and so on. So, you can either do it by subjective self-reporting or objective measures. You can also, using various devices, at least with cigarettes, have them monitor how they smoke, for example, out in the natural environment. So, there are various ways of determining that.

Q Let's see. One way is the self-report. You've mentioned that you could see how many times they self-administer. If you take a smoker and put a package of cigarettes on the table, do you count the number of times he smokes the cigarettes and how many puffs he takes?

A You can do it much more complex ways than that.

Q But that's basically what you're doing, is seeing how much he did smoke?

A No. A simple number of cigarettes can become a really refined measurement. Looking at depth of inhalation and so on.

Q You measure the amount of choline he produces?

A You can do that.

http://legacy.library.ucsf.edu/tid/dfp07a00/pdf Source: tobacco industry documents.ucsf.edu/docs/gjxl0001

Q That's one way?

A What I was talking about was specific measurements of how people take in nicotine and smoke, so that you can actually have them puff on a device that measures how much is going in and so on.

Q People who take in more nicotine a day, in your opinion, enjoy smoking more than people who don't?

A People who take in more nicotine a day may be more dependent.

Q I didn't ask you about that. We're talking about how do you determine how much a person likes smoking, and you told me there were three ways. One was self-report. Another was to see how much they smoke in a clinical situation and to measure the amount of nicotine they take in. How does measuring the amount of nicotine they take in determine how a person likes to smoke?

MR. HOLFORD: Objection; asked and answered, repetitious.

Q Doctor, does a person who smokes two packs a day and takes in more nicotine like to smoke more than a person who takes in one pack a

http://legacy.library.ucsf.edu/tid/dfp07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

day?

A As I said before, that relationship is not linear. That isn't necessarily the case.

Q So, you can't tell necessarily for a specific individual how much they like smoking by looking at how many cigarettes they smoke a day?

A By that measurement, no.

Q How do you determine how much a person really wants to quit smoking?

A There are two ways to do that. One is you can watch them and see if they make quit attempts. Unfortunately, the most severely dependent people often don't make quit attempts. And you can ask them.

Q Self-report, and the other way is to see how many times they try?

A Right. And as I say, the unknown is how many people would like to quit, won't tell you anything about it, don't try to quit, that keep smoking; and they're pretty severely dependent.

Q But they've made no effort to try to quit and they have never told anybody they want to quit and we don't know whether they want to quit or not, according to you?

http://legacy.library.ucsf.edu/ad/dfp37a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

A There's no way to know. There's no objective data there.

Q Let's talk about Sam. Okay? Sam Allgood, according to you, was severely dependent. Let's put that aside for the moment. I want you to tell me, if you can, how much Sam Allgood really liked to smoke.

MR. HOLFORD: Objection; repetitious, specifically asked and answered.

Q Did I ask you how much Sam Allgood liked to smoke?

A It sounds awfully familiar. I believe you asked something close to it.

MR. CRUSE: What was your answer?

A Let me once again tell you that I can talk to the severity of his dependence. I cannot talk to how much he, quote, liked or did not like to smoke. But I think I have answered that a couple of times.

Q I asked you how you could determine.

A Well, we've been through this.

Q You don't have any self-report information from Sam Allgood about how much he

http://legacy.library.ucsf.edu/ad/dfp97a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

1 liked to smoke?
2 A And, in fact, I think, arcing back on
3 it, I believe I addressed the issue of Bonnie
4 Allgood and was trying to recall whether or not
5 in there there were comments about how much he
6 liked to smoke; and I frankly don't recall those.
7 There may be a couple of comments in the records
8 about that.
9 Q You would search the records to see if
10 there was anything that would support ---
11 A (Interrupting) Yes. Excuse me.
12 Q --- the finding that Sam Allgood said
13 he liked to smoke? That would be indication to
14 you, wouldn't it?
15 A That's correct.
16 Q And would you also search the records
17 to see if Sam Allgood reported smoking cigarettes
18 at certain times more than others?
19 A I think that's where you can get your
20 information on that, yes.
21 Q And you would look to other people who
22 were with Sam Allgood and their depositions to
23 see if they reported that Sam Allgood enjoyed
24 smoking at certain times more than others?
25 A Yes.

http://legacy.library.ucsf.edu/tid/dfp37a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

Q Did you look for that stuff in the depositions Mr. Holford gave you?

A I'm sure I did. I vaguely remember seeing some things like that. I was using his pattern of smoking, primarily.

Q Now, Doctor, let's go to the other side of the coin. Motivation to quit. Was Sam Allgood ever motivated to quit smoking before 2-17-87?

A There is no evidence in the materials that I received that he had ever made any attempt to quit. I don't know about his motivations.

Q So, you would agree that before 2-17-87, Sam never seriously tried to quit? That's a true statement?

A Let me just ask a question. That was the date of the diagnosis?

Q Right.

A Yeah. As far as I know, he did not make any effort.

Q As far as you know, Sam never even made a decision he wanted to quit; isn't that true?

A That's correct.

Q You don't know that Sam Allgood ever considered quitting before 2-17-87; isn't that

http://legacy.library.ucsf.edu/tid/dfr07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

true?

A None of us know whether he made a decision to quit or not quit.

Q He could have made a decision that he wanted to continue smoking, for all we know; isn't that true?

A What we do know is that he was dependent and did continue to smoke.

MR. CRUSE: Nonresponsive.

Q We don't know whether he wanted to quit or whether he didn't want to; is that right?

A That's correct.

Q Doctor, there were instances during Sam Allgood's life that would have suggested to him that there may be health effects associated with smoking cigarettes; isn't that true?

A I believe that as an observer, that there were such incidents. As you indicated earlier, he may not have made those associations.

Q But he knew that his step-uncle, Hoot - good friend of his, right, treated him like a brother - he died in 1977 of lung cancer? You recall reading that in the deposition, do you not?

A Uh-huh.

http://legacy.library.ucsf.edu/tid/dfr07a00/pdf
Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

Q And you recall that Hoot was also a smoker, right?
A (Witness nods head affirmatively.)
Q And you recall that Bonnie said Sam was very upset about his death?
A Uh-huh.
Q And you recall that the family said during the funeral where Sam was present that Hoot died of lung cancer because he smoked, right?
A (Witness nods head affirmatively.)
Q Do you recall that? You have to answer "yes."
A Yes.
Q Or "no," whichever the case may be.
A Well, there was lengthy discussion of the various brothers and other people who had smoked and had lived and died and so on; and Hoot was one of those people, yes.
Q And the father, as well, died of lung cancer, correct?
A He died of cancer. Was it lung cancer? I just don't recall.
Q Do you recall, though, that Bernard - Benard ---

http://legacy.library.ucsf.edu/ad/dfr07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

1 A (Interrupting) Benard.
2 Q --- said that the father's cancer was
3 caused by his smoking?
4 A Yeah. There was a comment in there,
5 yes.
6 Q And Sam was present at that time, was
7 he not?
8 A That's what Benard said.
9 Q And there are other occasions where Sam
10 would have learned that there were effects that
11 others believed were caused by smoking?
12 A Well, we have a few occasions like
13 that, yes.
14 Q We don't know whether, when confronted
15 with those circumstances, Sam said to himself,
16 "I'm going to take the risk. I don't care. I'm
17 going to keep smoking"? We don't know that he
18 said that or not, do we?
19 A What we do know is what he did say.
20 Q Okay.
21 A We do not know that he said that.
22 Q Okay. Do we know what he did say,
23 Doctor?
24 A He appears to have made some comment to
25 his wife about believing that he had - because he

http://legacy.library.ucsf.edu/id/dfp07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

1 had been smoking so long, he had a shield which
2 would somehow protect him from the effects of
3 smoking. If indeed that was his belief, you can
4 see how some of those things - some of those
5 other incidents might not have influenced him
6 terribly; for example, Hoot's death. At the same
7 time, we have evidence that when he was
8 confronted with his own cancer, he abruptly
9 stopped smoking.
10 Q Doctor, did Sam ever say, "If I'm going
11 to die, it may as well be cigarettes, because I
12 enjoy them"?
13 A I really don't recall such a statement.
14 Q If he had said that, would that be an
15 indication to you that he had considered and
16 rejected quitting?
17 A No.
18 Q How about if Sam had said, "If I have
19 to die, it may as well be cancer. Something's
20 going to get you"? Do you recall Sam reportedly
21 saying that?
22 A What's the question?
23 Q Do you recall Sam reportedly saying
24 that?
25 A No, I don't.

http://legacy.library.ucsf.edu/tid/dfp37a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

1 Q Do you recall him saying - or reported
2 to have said, "When your number's up, that's it"?
3 A Where is this information?
4 Q In the depositions.
5 A Which ones?
6 Q Well, I'm asking you if you recall him
7 saying that. That's all.
8 A Well, there are a whole series of
9 things you could ask me that may or may not be
10 there. I'm asking if you could point out where
11 you found that. It would help me out a little
12 bit. I mean, which person?
13 Q Did you review the deposition of
14 Crainer?
15 A I reviewed some pages. I'm sorry. I'm
16 just looking for a reference here. I read some
17 pages of Crainer. Not many. You'll recall he
18 (indicating Mr. Holford) gave me a couple of
19 pages.
20 Q Based upon everything you had reviewed,
21 do you have the opinion that Sam was fatalistic?
22 A In the common parlance, not
23 particularly, no.
24 Q If Sam had said, "If I'm going to die,
25 it may as well be from something I enjoy.

http://legacy.library.ucsf.edu/tid/dfp07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

1 Something is going to get you anyway. If I have
2 to die, it may as well be cancer," and, "When
3 your number's up, that's it," would those
4 statements have been reflective of someone who
5 had a fatalistic attitude?
6 A I think you've used all this before.
7 You've asked me all these questions before, and I
8 have been responsive to it. I told you that,
9 one, those things were not necessarily indicative
10 of somebody that wanted to quit or not wanted to
11 quit; and two, that it was not related to
12 fatalistic.
13 Q So, was Sam fatalistic or not is
14 something you just don't know?
15 A As I said to you, using the common
16 parlance, I don't think he was.
17 Q Was he independent, using the common
18 parlance?
19 A I would seem to agree with you, yes.
20 Q And he was strong-minded?
21 A I'm not quite sure what that means. If
22 you could define it for me.
23 Q I don't know. Mark said he was
24 strong-minded.
25 A People have used those phrases in the

http://legacy.library.ucsf.edu/tid/dfp07a00/pdf Source: tobacco industry documents ucsf.edu/docs/gjxl0001

various depositions, and I read them as people's use of words. I may or may not agree with them.

Q Stubborn. Do you think he was stubborn?

A I have nothing to indicate that he was particularly stubborn as I would use the word "stubborn."

Q Would you say he was not gullible, not easily persuaded?

A Some people said those things in the various depositions, and I really -- I can't comment on those. Those are things other people said about Sam.

Q Tell me how you would describe Sam's personality based upon what you reviewed.

A I'm not going to describe Sam's personality. I'm not here for that purpose.

Q Well, can you; or can't you?

A I'm not here to discuss his personality. I'm here to discuss nicotine dependence.

Q And you don't think the personality of the individual has anything to do with nicotine dependence?

A As I recall -- Once again, we've gone

http://legacy.library.ucsf.edu/ad/dfr07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

through this in Grinnell, and I'm happy to go through it with you here. For example, the addictive personality is one that's been talked about a great bit. And there's a general agreement, I think, in the literature these days that it's not a terribly useful consideration; and it doesn't mean much in this instance.

Q Doctor, I'd like to direct your attention to a different line of questioning. I really want to talk about quitting and Sam's quitting. I don't really care much to address nicotine dependence. I understand your opinions fairly well on that. I would like to address quitting. And I want to address the following issues with Sam. Now, you've told us that he never quit before he was diagnosed and never considered, to your knowledge, quitting or not quitting before that time. What about Sam's use of cigarettes gives you information to predict whether he would have successfully been able to quit earlier if he had been motivated to do so?

A That's a hypothetical. I have no information about that.

Q Doctor, when Sam Allgood was properly motivated to quit smoking, he did? You agree

http://legacy.library.ucsf.edu/tid/dfr07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

1 with that, do you not?
2 A When Sam Allgood received the
3 information that he had cancer, he quit smoking.
4 And it's pretty clear, it seems to me, that those
5 two things were closely related.
6 Q Sam Allgood, when properly motivated,
7 quit smoking; is that true?
8 A "Motivated" is your word, not mine.
9 Q Do you know what "motivated" means?
10 A I have a great deal of difficulty with
11 the word.
12 Q When Sam Allgood wanted to quit smoking
13 enough, he did?
14 A When conditions arose - certain
15 conditions arose, Sam Allgood did quit smoking.
16 We know that.
17 Q And that wasn't because he was in jail
18 and couldn't have cigarettes. It was because he
19 decided to quit?
20 A He found out that he had cancer.
21 Apparently, that was one of the things, from the
22 other - from the other depositions, that it was
23 something he was tremendously fearful of; and
24 there he was with his most feared consequence,
25 from which he thought he had a shield, he

http://legacy.library.ucsf.edu/tid/dfp07a00/pdf Source: tobacco industry documents ucsf.edu/docs/gjxl0001

1 believed that he was safe.
2 Q Doctor, I am going to move to strike
3 that answer as nonresponsive, because I asked you
4 specifically: When Sam wanted to quit smoking,
5 he did, did he not?
6 A I don't know what he wanted. I know
7 that he quit when he found out he had cancer. He
8 may not have wanted to. He may have thought it
9 was necessary at that point.
10 Q Do you have any basis -- In the
11 depositions you reviewed, is there anything you
12 can point us to to say that Sam Allgood did not
13 want to quit smoking on February 17, 1987?
14 A I don't know what Sam Allgood wanted to
15 do or didn't want to do. I know that he did
16 quit.
17 Q So, you don't know if Sam Allgood
18 wanted to quit smoking at any point in his life?
19 A What I would suggest to you is that as
20 people will be forced to quit smoking or quit
21 taking a drug -- We discussed it before. People
22 will be put in circumstances where they are
23 forced. What those circumstances are can vary
24 tremendously.
25 MR. CRUSE: The question was:

http://legacy.library.ucsf.edu/tid/dfp37a00/pdf Source: tobacco industry documents ucsf.edu/docs/gjxl0001

1 You don't know if he ever wanted
2 to quit in his life? And the
3 answer didn't have anything to
4 do ---
5 THE WITNESS: (Interrupting)
6 I'm sorry?
7 MR. CRUSE: You've got to go
8 in sequence.
9 Q You can answer my question, if you can.
10 Do you want to answer it?
11 A Let's just go on.
12 MR. HOLFORD: I object to
13 it as repetitious.
14 MR. DAVID: I'd like to hear
15 the question again.
16 MR. CRUSE: It was, "You
17 don't know if he ever wanted to
18 quit smoking in his life?"
19 MR. HOLFORD: I object; asked
20 and answered and repetitious.
21 Q The answer to that question is "no,"
22 Doctor?
23 A The answer is we don't know if he
24 wanted to quit.
25 Q Ever in his life?

http://legacy.library.ucsf.edu/tid/dfp37a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

A We don't know.

You want to ask me again?

Q No, no. That's fine.

MR. DAVID: Off the record.

(AT THIS TIME THERE WAS A BRIEF OFF-THE-RECORD DISCUSSION, AFTER WHICH THE PROCEEDINGS RESUMED AS FOLLOWS:)

(By Mr. Sheffler)

Q Doctor, would you describe for the jury how difficult it was for Sam Allgood to quit?

A I think we don't have any evidence about how difficult it was for him to quit.

Q Doctor, getting back to the reasons why Sam Allgood smoked, you don't know if the reason Sam Allgood smoked all of his life was because he wanted to? You can't say with a professional degree of certainty that Sam Allgood smoked all of his life because he wanted to? You can't say that that's wrong, can you?

A Wait a minute. There was a question, and then you said that I can't say that that's wrong. I can't answer that.

http://legacy.library.ucsf.edu/tid/dfp37a00/pdf Source: tobacco industry documents ucsf.edu/docs/gjxl0001

Q I'm sorry. You're absolutely correct, Doctor. I'm getting tired, and I'm sorry.

A So am I. I take back wanting to go until 10:00 tonight.

Q Doctor, you can't say that ---

A (Interrupting) I cannot say that Sam Allgood smoked because he wanted to at any given point in his life or not.

Q And you cannot say that he smoked for any other reason at any point in his life; isn't that true?

A He smoked for -- I can say based on the data what sustained the smoking.

Q Doctor, isn't it possible based upon all that you know about Sam Allgood that Sam Allgood smoked solely because he wanted to all of his life?

A I think there's a fair body of evidence that indicates that smoking is sustained by nicotine dependence.

MR. CRUSE: Nonresponsive.

Q That may very well be, Doctor, but ---

MR. HOLFORD: Nonresponsive is on the record. There's no further comment necessary.

http://legacy.library.ucsf.edu/ad/dfp07a00/pdf Source: tobacco industry documents.ucsf.edu/docs/gjxl0001

MR. RILEY: By anyone, Doug. That includes you.

MR. CRUSE: Including yourself.

MR. HOLFORD: Ask the next question, please.

MR. SHEFFLER: I was. You interrupted me. Even in New York, we give courtesy to opposing Counsel not to interrupt them.

MR. HOLFORD: The record will show that you made a comment following Mr. Cruse's objection, and that's what I was addressing.

MR. DAVID: I'm taking my ball and going home. Y'all are not playing the way I want to play this game. I'm going home.

(By Mr. Sheffler)

Q Isn't it true, Doctor, that one of the reasons and perhaps the sole reason that Sam Allgood smoked all of his life was because he wanted to?

MR. HOLFORD: Objection; asked and answered.

http://legacy.library.ucsf.edu/ad/dfp07a00/pdf
Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

THE WITNESS: I agree with you.

Q What in the records shows that that is false? What in the records shows that Sam Allgood just didn't smoke all of his life because he wanted to?

MR. HOLFORD: Objection. It's repetitious.

A It's the famous double negative. I have defined for you the conditions that I feel in my opinion sustained his smoking behavior, and I have gathered that from the records about which we're talking. And again, you can ask me questions about what he wanted to do or did not want to do, and we don't -- Neither you nor I really know that.

Q Okay. Doctor, you've told me Sam Allgood liked smoking. You've told me that he was nicotine dependent; and therefore, he probably liked the direct effects of nicotine. You told me that he probably did not like the effects of not smoking. You told me that he did like, probably, the learned effects that he had from smoking; and you told me that all of those things were part and parcel of what you call

http://legacy.library.ucsf.edu/ad/dfp37a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

1 nicotine dependence.
2 MR. HOLFORD: Objection to
3 mischaracterization of testimony.
4 Q Is that correct?
5 A I think we'd have to go back through
6 the whole transcript to identify some of the
7 points you just listed. You're telling me what I
8 just told you, and I don't think you have notes
9 to that effect. She does. The reporter does.
10 Q Wouldn't you agree, Doctor, that Sam
11 Allgood smoked because he liked the effects of
12 nicotine?
13 A I think we went through that and I
14 believe ---
15 Q (Interrupting) Well, that's what I
16 just said.
17 A We went through it hours - or at least
18 an hour ago, and I don't think I answered it in
19 quite the way you're describing it.
20 Q Well, then let me ask a totally
21 different question.
22 A We've been through like. We've been
23 through wanting. What else?
24 Q What Sam liked, Sam wanted.
25 A That's your characterization.

http://legacy.library.ucsf.edu/tid/dfp07a00/pdf Source: tobaccoindustrydocuments.ucsf.edu/docs/gjxl0001

Q And you have no evidence to support a contracharacterization, do you?

A I think we agreed on that earlier.

MR. SHEFFLER: Let's take five minutes.

(AT THIS TIME A BRIEF RECESS WAS TAKEN, AND THE PROCEEDINGS THEREAFTER RESUMED AS FOLLOWS:)

(By Mr. Sheffler)

Q Just one more thing on Sam's background that you derived from the depositions. You read Lillian Allgood's deposition?

A That's correct.

Q And she painted a picture of someone who wasn't going to worry about the future. Do you recall that?

A I -- I'm not so sure -- I read it differently.

Q She made the comment, in fact, when asked -- Let me get it.

A Sure.

Q So we know what we're talking about. It's not there.

http://legacy.library.ucsf.edu/tid/dfr07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

MR. SHEFFLER: Off the record.

(AT THIS TIME THERE WAS A BRIEF OFF-THE-RECORD DISCUSSION, AFTER WHICH THE PROCEEDINGS RESUMED AS FOLLOWS:)

(By Mr. Sheffler)

Q Page 143, line 3. In fact, these are questions, I believe, that were being asked by Mr. Holford. Mr. Holford asked the following questions of Ms. Lillian, as he referred to her.

"A lot of people do, Ms. Lillian. Ms. Lillian, you knew Edward. If he had a reason to be concerned about something in the future happening to him, would he be given to worry about that?

"I don't think he would because he wasn't the type of person that thought about the future or anything like that. He never did talk about what was going to - you know, ahead of things and all that. He wasn't concerned. He was just concerned about from one day to the other."

http://legacy.library.ucsf.edu/ad/dfp97a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

1 Mr. Holford says, "Now, I know you've
2 said that" --
3 And she answered, "One day to the
4 next."
5 MR. HOLFORD: Continue.
6 Q "I know you said that" -- I'm sorry.
7 This is again Holford. "I know you said that
8 Edward could take care of himself?
9 "Yeah," was Lillian's answer.
10 "Ms. Lillian, but if he came to know or
11 believe that something bad was going to happen to
12 him in the future, would he be given to worry
13 about that?
14 "Well, if he knew that it was something
15 going to happen to him, he'd probably worry about
16 it; but he never did worry about nothing.
17 "That you knew of?
18 "That I knew of. That's right."
19 Now, given what is here, would you
20 agree that Ms. Lillian ---
21 A (Interrupting) Which part?
22 Q The whole thing. Would you agree that
23 Ms. Lillian painted a picture of Sam as someone
24 who wasn't necessarily all that concerned about
25 long-term future events?

http://legacy.library.ucsf.edu/tid/dfp37a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

A I frankly think that that was a mixed presentation. Serious things, he was willing to worry about or would worry about; and less serious things, he would not worry about, if you perceived him as such, probably like most people.

Q "Well, if he knew that something bad was going to happen to him in the future, would he be given to worry about it?"

And the answer, the somewhat equivocal answer, "Well, if he knew that it was really something going to happen to him, he'd probably worry about it; but he never did worry about nothing." I'd take it from that, Doctor, if Sam thought he had a possibility of something happening in the long-term future, it wasn't going to have much of an effect. If he knew for certain, definite sure it was going to happen in the future, maybe he would be worried about it. Is that the way you take it?

MR. HOLFORD: Objection to Counsel testifying.

A I take it somewhat differently.

Q How do you take it?

A As I said, I think there is an indication that, like most people, on a

http://legacy.library.ucsf.edu/tid/dfr07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

day-to-day basis, he doesn't live in constant anxiety. If there is something that he is convinced that is going to cause him problems in the future, he does worry about that. And I think you read that fully and I think both things are reflected there and it sounds very much like most people, a fairly rational approach, actually.

Q Doctor, Sam was like most people, in your estimation?

A Given his time and his environment and circumstances, he sounds pretty much like most. Most people -- I mean, given the background, given the background. Though I grant I don't know most people. There wasn't anything outstanding about him.

Q You're familiar with the term "risk averse," people who are called risk averse?

A Yeah, yeah.

Q That wouldn't apply to Sam, would it?

A If you're getting into essentially the science of the study of risk and aversion to risk, I really can't comment on that.

Q That's beyond what your profession does?

http://legacy.library.ucsf.edu/tid/dfr07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

1 A Yeah.
2 Q That's good. Takes us away from that.
3 Doctor, I'd like to refer to the
4 DSM-III-R criteria again, if you have your copy.
5 I think it was one of the exhibits. Do you have
6 it there, Doctor?
7 A I have one here. I was looking for the
8 remainder of those things. I've put them away.
9 Q In your report, Doctor, you say,
10 "Mr. Allgood appears to have met the criteria for
11 drug dependence, nicotine, based on DSM-III-R,
12 section A"; and then you list items 2, 3, 6 and
13 7. You don't know when Mr. Allgood met those
14 criteria? I mean, at what time he first met
15 those criteria?
16 A We talked about ---
17 Q (Interrupting) I mean, you
18 answered ---
19 A (Interrupting) Well, for example, the
20 three ---
21 Q (Interrupting) Let me just point you
22 to November 8th, your letter, paragraph 2. "It's
23 difficult to identify the date certain when
24 Mr. Allgood was" ---
25 A (Interrupting) Okay. Okay. Sure.

http://legacy.library.ucsf.edu/id/dfp37a00/pdf Source: tobacco industry documents.ucsf.edu/docs/gjxl0001

1 Q And you don't know a date certain when
2 Mr. Allgood met these criteria, either, do you?
3 A He met these more or less at various
4 times. The apparent criteria at any given time
5 in a drug user's career may vary. That comment
6 was that I didn't know whether particularly at
7 age 6 or age 10 or age 12 he was severely - that
8 he was dependent. But I think I continued on to
9 say that probably by 1947 or so, when he was
10 smoking a pack or a pack and a half a day,
11 that ---
12 Q (Interrupting) You said '49 to the mid
13 '50's. But whatever it says.
14 A Yeah.
15 Q Doctor, let's go back to DSM-III-R,
16 though.
17 A Yes.
18 Q And let me ask you: On no. 1, you did
19 not indicate that you believed that that was one
20 of the criteria you would list for Sam Allgood;
21 is that correct?
22 A I did not list that. You could argue
23 your way around that and maybe include it, but I
24 didn't include it. These are all shady.
25 Q No. 2, though, "persistent desire or

http://legacy.library.ucsf.edu/id/dfp07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

one or more unsuccessful attempts at" ---

A (Interrupting) I'm sorry. You're looking at the short list. Okay. Fine.

Q I'm looking at what you put down here on ---

A (Interrupting) Okay. Fine. I was back on the other ---

Q (Interrupting) I'm referring to your report, as well. Just so you know where I'm at on your report, it's the last paragraph on March 1 of your report.

A Go ahead. I don't have that here.

Q Well, do you want it?

A Yes, I do. Which one is it?

Q March 1.

A Got it. Got it.

Q Now, so, 1 doesn't apply. But 2, the "persistent desire or one or more unsuccessful efforts to cut down or control substance abuse." Now, Doctor, you've told us that he never made an effort to quit smoking; so, I presume that it's either the persistent desire or some type of control.

A It's only the persistent desire in this instance. You'll notice that this has several

http://legacy.library.ucsf.edu/tid/dfr07a00/pdf
Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

or's in it, and you can qualify for this based on any one of those. Persistent desire -- As we agreed before, the words are difficult. The evidence that I have of, quote, desire - not a word that I would have selected, but I understand how the word is used professionally - can be reflected in his constant use of the substance over many years.

Q Wait a minute. It's a persistent desire to either cut down or control, is it not?

A The persistent desire or one or more unsuccessful attempts to cut down or control substance abuse.

Q So, the ---

A (Interrupting) Okay. He had -- I'm sorry.

Q The persistent desire accompanies and is modified by either to cut down or to control?

A I'm sorry. Yeah. You're right.

Q So, what is the evidence that Mr. Allgood had a persistent desire to cut down or to control?

A You know, I'm going to have to back off on this. I think that you're correct about it.

Q So, 2 is out. Would you like to just

http://legacy.library.ucsf.edu/tid/dfr07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

1 draw a line through your report there on this
2 exhibit. No, no. The exhibit. March 1. You
3 see where you have "2" down there? Would you
4 just draw a line through that and put your
5 initials there.
6 A Sure.
7 Q No. 3, "a great deal of time spent in
8 activities necessary to get the substance," did
9 Sam fit that?
10 A I think if you read some other things
11 here about the difficulty or lack of difficulty
12 about getting various kinds of drugs, what I was
13 addressing there was how he bought the drug in
14 quantity, that he -- This is an easy substance to
15 get, as we all agree. This doesn't apply in
16 terms of getting the drug as we think of it in
17 other ways, but he did make specific trips to the
18 PX to obtain the drug. He bought large
19 quantities of cigarettes when he did that. And,
20 as we know, in terms of taking the substance, he
21 certainly smoked pretty continuously throughout
22 the day and got up in the middle of the night and
23 smoked. That can be reflective of essentially a
24 rebound effect while he was sleeping, decreasing
25 nicotine levels, and in some people - and this

http://legacy.library.ucsf.edu/tid/dfp07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

1 has been found with replacement methods, too -
2 nicotine will lead to awakening and then, in his
3 case, it led to smoking as nicotine levels
4 decreased. So, I think we're pretty clear about
5 that.
6 Q Well, I'm not; so I'd like to ---
7 MR. CRUSE: (Interrupting)
8 You want to get the nonresponsive?
9 You looked this way. I'll go
10 ahead and say "nonresponsive" for
11 you.
12 Q I just want to follow up on this.
13 There are three possibilities for no. 3? You can
14 satisfy no. 3 in three different ways?
15 A That's right.
16 Q The first way is a great deal of time
17 spent in activities necessary to get the
18 substance. Now, Sam did not spend a great deal
19 of time getting the substance; is that correct?
20 A Time, as such, he spent probably no
21 more or less than other people.
22 Q Probably less since he bought in bulk.
23 A Well, that's true.
24 Q So, he doesn't fit that point?
25 A Well, I think, though, that anyone who

http://legacy.library.ucsf.edu/tid/dfp07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

goes out spending time buying cigarettes is evidencing time getting the drug.

Q But this is supposed to identify people, isn't it?

A I'm sorry. It's a relative issue, and these are taken -- These take those into account. People go out and buy cocaine. It takes them longer in some cases and less time in other cases to buy cocaine than it took him to buy cigarettes. What I'm saying to you is he spent time buying cigarettes. He also spent a great deal of time smoking cigarettes.

Q Let's just talk about the first part. Getting the substance is the first part.

A He spent time getting cigarettes.

Q Every smoker spends time getting cigarettes?

A That's absolutely true.

Q So, this applies to every smoker?

A And I think apparently, in your knowledge of Dr. Hughes, that's one of the issues. Yes, it does apply to most smokers.

Q Not most. Every smoker. Every smoker who buys his own cigarettes or borrows them from somebody else.

http://legacy.library.ucsf.edu/ad/dfp37a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

A They spend time getting drugs. That's true of all drug dependent people.

Q So, why the hell is it a criteria? Why don't you just say "using"?

A Well, why don't you talk to the folks who wrote this.

Q So, this doesn't distinguish any smokers from any other smokers?

A Interestingly, it is characteristic of most drug dependent people that they spend time getting their drug.

Q Obviously. It's also ---

MR. RILEY: (Interrupting) That's nonresponsive.

THE WITNESS: Well, there isn't any question. How can it be nonresponsive?

Q It's also consistent with most people who eat foods. They spend time getting foods, too, don't they?

A And this is a different issue entirely, and you know that.

Q No. 3, the first part of it, Sam fits that?

A We agree about that.

http://legacy.library.ucsf.edu/tid/dfp07a00/pdf Source: https://industrydocuments.ucsf.edu/docs/gjxl0001

1 Q Well, Sam fits that, according to you,
2 because he bought cigarettes?
3 A He spent time getting cigarettes.
4 Q He spent time taking them, too.
5 A That's right.
6 Q Of course, every smoker who smokes
7 spends time smoking.
8 A That's correct.
9 Q Doctor, I'm sorry. I'm not trying to
10 be -- I don't want to offend you. I really
11 don't.
12 MR. DAVID: You're doing a
13 lousy job, if that's not what
14 you're trying to do.
15 Q It just seems a little odd to me that
16 they'd have a criteria that applies to everybody
17 who uses a substance when they're trying to
18 distinguish those who are dependent from those
19 who are not. Why don't they just say those who
20 smoke are dependent?
21 A I appreciate that you're giving me a
22 lecture about this, but what I would suggest to
23 you is that there are certain criteria or
24 features of drug dependence that are common to
25 all people who use drugs.

http://legacy.library.ucsf.edu/tid/dfp37a00/pdf Source: https://industrydocuments.ucsf.edu/docs/gjxl0001

MR. HOLFORD: And I object to Counsel putting his understanding on the record and Counsel testifying on the record.

Q No. 3, the last part of it says "or recovering from his effects." Did Sam spend a lot of time recovering from effects of smoking?

A That's an interesting question about that. It is not applicable in quite the same way that it is, for example, to opiates or cocaine; but you can expect that he did spend some time recovering from its effects, at least while he was sleeping. I mean, there's some recovery process while he's sleeping, because he had the problems with coughing later on in his life and so on. But this is really intended to apply more directly to people who are, for example, opiate dependent.

Q That's what I thought. By the way, these criteria were written for many different substances; and not all of them apply to cigarettes?

A That's correct. And they were written to include all substances, which makes it seem ludicrous for some and not others.

http://legacy.library.ucsf.edu/ad/dfr07a00/pdf
Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

Q Right. Doctor, you mentioned before that Sam woke up in the middle of the night, and you explained that one of the reasons for that could be his nicotine ingestion during the day.

A Yes.

Q But you don't know that that was the case?

A If you look at some of the data about people using, for example, the 24-hour -- I do not know that to be the case for him except for the fact that he woke up and had - smoked cigarettes in the middle of the night.

Q Doctor, if he woke up because he was anxious about his work, if he woke up because he had indigestion, if he woke up because he had a headache because he drank too much beer that day and there were cigarettes there and he smoked them, would that be indicative of a criteria of dependence?

A I believe that some of those can be excluded because the man didn't drink, as I understand it, except quite infrequently. And in listing all of those things that you listed, he could have awakened for a number of reasons, but what we do know is that he frequently smoked in

http://legacy.library.ucsf.edu/ad/dfp37a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

1 the middle of the night. That is characteristic
2 of somebody who's nicotine dependent in this
3 pattern that he exhibited.
4 Q Is it also characteristic of somebody
5 who, when they get up in the middle of the night
6 and want to go back to sleep and need to relax,
7 has a cigarette to relax?
8 A I think in that particular instance, we
9 can't differentiate the two since they're
10 intimately linked. If the nicotine levels are
11 going on, as with opiate dependence, it both
12 attenuates your withdrawal and gives you an
13 additional boost and relaxation.
14 Q Just like people who use caffeine to
15 get a boost in the morning and a stimulant in the
16 morning, correct?
17 A Not necessarily the same. But there
18 could be cases where that's true, as well. I
19 mean, the boost part, yes.
20 Q By the way, warm milk affects a
21 receptor in the brain, right? Isn't there
22 serotonin in warm milk?
23 A Actually, you're talking about
24 tryptophan, I believe. There's some -- What is
25 it in milk?

http://legacy.library.ucsf.edu/tid/dfp07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

1 Q I'm talking about serotonin.
2 A There's something in milk that assists
3 in sleeping. I think it's tryptophan.
4 Q It assists in sleeping because it has a
5 psychoactive effect on the brain?
6 A That is believed to be true, yes; and I
7 think there are actually some data for some
8 people.
9 Q If Sam woke up in the middle of the
10 night and regularly had a glass of warm milk,
11 would he be dependent, if he was waking up
12 because he wanted warm milk?
13 A I think that's a different category of
14 agents.
15 Q I'm not saying milk is the same
16 category of agents as cigarettes. I'm just
17 asking you: Would the behaviors be similar?
18 A I'm not claiming expertise in milk
19 dependence.
20 Q Let's continue on. No. 6, "continued
21 substance use despite knowledge of having a
22 persistent and recurrent social, psychological,
23 or physical problem that is caused or exacerbated
24 by the use of the substance." Let me ask
25 something before we go on to Sam. Is it part of

http://legacy.library.ucsf.edu/tid/dfp37a00/pdf Source: tobacco industry documents.ucsf.edu/docs/gjxl0001

1 this criteria that the user has to understand or
2 believe that his problem is being exacerbated by
3 the use of the substance?
4 A It's difficult. I think -- I don't
5 happen to think that's true. I think people's
6 level of knowledge can be extremely variable. I
7 know what I was thinking of when I responded that
8 way, but ---
9 Q (Interrupting) Well, let me ask you
10 this: Say a person has pancreatitis and is also
11 drinking beer, maybe a beer or two a day, and has
12 no idea that the beer is associated with his
13 pancreatitis. Would he fit the criteria of no.
14 6; and would he, therefore, fit the criteria of
15 being an alcohol abuser?
16 A He would still fit the criteria of
17 being an alcohol abuser, whether or not he -
18 independent of whether or not he had knowledge
19 about his pancreatitis.
20 Q So, the mere fact that he had an injury
21 that was being exacerbated by the ingestion of
22 the substance, whether he knew that or not, he
23 still fits?
24 A No. I'm not saying that about the case
25 that you've presented.

http://legacy.library.ucsf.edu/id/dfp37a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

Q Let's strike all that and go back to the issue at hand. In Sam Allgood's case, did Sam have to understand that he had a persistent or recurrent social, psychological, or physical problem that was being caused or exacerbated by the use of tobacco to fit no. 6?

A Let me -- Perhaps we could go through this more briefly by simply having -- I'll point out that there were some instances in Bonnie Allgood's testimony where she - she, at least, expressed an indication that she had in one way or another indicated to him that she would like him to quit. They also -- Ultimately, there were circumstances in which - and it isn't clear how these arose in their lives - that, for example, he didn't smoke in the room where they had new furniture and so on. What that leads you to, of course, is that that was, I expect, inconvenient for him. So, there was some social circumstances surrounding his use, the various episodes ---

Q (Interrupting) He didn't smoke at the Amoco lab, either, because it was going to blow up.

A Well, good point. Good point.

Q So, that fits no. 6, the fact that he

http://legacy.library.ucsf.edu/tid/dfr07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

1 didn't smoke where it was going to blow up?
2 A There were the indications that you
3 mentioned earlier about people having mentioned
4 the possibility Hoot died because of lung cancer
5 and that that had been related to smoking and so
6 on. There was some indications that - you know,
7 that ambiguous knowledge or lack of knowledge -
8 it's kind of hard to say - but that there were
9 things out there.
10 Q Doctor ---
11 A (Interrupting) Well, no. I think that
12 you stated clearly before and accurately that
13 some of these things are difficult, particularly
14 in terms of nicotine dependence, and that's why
15 the things are being revised. But we're dealing
16 with what we're dealing with here for the moment.
17 Finally, I would note that he had been
18 advised, as I understand it, by at least one
19 physician, that he should probably stop smoking.
20 And I assume for some reason - though I'm not
21 sure what that reason was -- Not all physicians
22 at all times make that recommendation. And there
23 was that persistent cough that I think he could
24 have noticed and presumably attributed to
25 smoking, but he may not have understood some of

http://legacy.library.ucsf.edu/tid/dfp07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

1 the consequences of that.
2 MR. RILEY: Objection;
3 nonresponsive.
4 Q Let me see if I can back up and give
5 you a hypothetical, Doctor, to kind of explain it
6 for me. If there had been a doctor that told
7 Sam, "Sam, you should quit smoking because, one,
8 it's going to increase your chance of getting
9 lung cancer. It's going to increase your chance
10 of getting laryngeal cancer. It's going to
11 increase your chances of getting emphysema or
12 COPD in the future. So, you should quit now,
13 besides which, you might die of a heart attack
14 someday because of smoking if you don't quit
15 now," if a doctor had told him that -- All right?
16 And Sam went away and kept smoking, would Sam fit
17 no. 6 on the basis of that situation alone?
18 A I think that's a pretty good case.
19 Q Even though he doesn't have a physical
20 problem that is caused or exacerbated by tobacco
21 at the time?
22 A Presumably in your hypothetical, a
23 doctor -- There may have been other reasons for
24 him or her to bring that up. Frankly, their
25 recommendations are typically not that clear.

http://legacy.library.ucsf.edu/tid/dfp37a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

Q Well, let me give you my hypothetical again, because it's my hypothetical; and I can make it as clear as I want.

A Yeah. Sure.

Q The doctor just took a history because Sam came in because he stubbed his big toe and he was getting medication for his big toe, and he had taken a history, found out he was a smoker, and he said, "Geez, Sam, you should quit because, you know, Doug Holford just told me that smoking causes lung cancer and all these other things. And I'm telling you, you should quit." That's the hypothetical. Sam didn't have a disease that's being caused or exacerbated, to his knowledge. All he knows is he has the risk of getting a disease. Now, does he fit the criteria?

A And it is the very characteristic of smoking that makes the ambiguity here. It is the long-term risk rather than acute risk that you might see, for example, with a single dose of cocaine. And again, as you've mentioned, these were intended to address many drugs; and they have to be, alas, shaped to discuss any particular drug.

http://legacy.library.ucsf.edu/tid/dfp37a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

1 Q I got you.
2 A Now, I think and I believe from some of
3 the depositions that there was some social
4 consequences for him. For example, I think that
5 his wife was fairly persistent and did discuss
6 this with him and that there were circumstances
7 regarding this. She did, for example, try to -
8 or did get him the gum, I guess.
9 Q Did he take it?
10 A No, he did not.
11 Q So, the wife tried a couple of times,
12 but then she also testified, Doctor ---
13 A (Interrupting) So, there was pressure
14 in his environment to do something about it.
15 Q Well, we can go back over the wife's
16 deposition at trial.
17 A Fine.
18 Q But right now I want to point you to
19 no. 6 again and ask you the following question:
20 Are you aware that it's been reported that up to
21 90 to 95 percent of the American population
22 believes that smoking is related to lung cancer?
23 A Yeah. There have been reports of
24 lesser percentages. I think that those data are
25 very difficult.

http://legacy.library.ucsf.edu/tid/dfp07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

1 Q Whatever the data summarized in the
2 1989 Surgeon General's report would be sufficient
3 for you, would it not?
4 A Well, you know, interestingly, I think
5 the data progress and it's -- You wonder -- If I
6 may answer this way and be considered responsive.
7 The data change over time, and you wonder how
8 clear - how well understood some of those things
9 are, given, for example, that there's increasing
10 smoking among, for example, young women in the
11 population. How well do they really know and
12 understand? Are there populations -- Or rather,
13 I can tell you I expect you would find that there
14 are populations where the information is less
15 well understood. The meanings of those data for
16 someone who are severely dependent are probably
17 somewhat different. Someone in his age range,
18 someone going back starting when he started
19 smoking, these data coming out as they came out
20 may be less well understood. And further, he
21 wasn't in the center of scientific inquiry or in
22 a place where I expect they had huge smoking
23 cessation programs for men in his age group and
24 so on. So, I think there are social issues
25 regarding that. So, the generic comment about 95

http://legacy.library.ucsf.edu/tid/dfp37a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

1 percent of the American people believe such and
2 such or know such and such, it's pretty vague.
3 It's like the comment, I think, that some of the
4 data are suspect about what percentage of people
5 want to quit. Many people say they want to quit.
6 What exactly does what mean? A lot of questions
7 have been raised about that.
8 MR. CRUSE: The question was:
9 Is the 1989 Surgeon General
10 report sufficient for you? And
11 the answer, to phrase
12 Dr. Grabowski, it didn't have
13 anything to do with the question;
14 so, I must object as
15 nonresponsive, although it was a
16 nice answer.
17 Q Doctor, the reason I asked you that, if
18 no. 6 is expanded to include knowledge of
19 potential problems that may result from using the
20 substance, almost every smoker in the United
21 States would qualify as meeting that criteria,
22 would they not?
23 A I think you said that before, and I
24 think we agreed that that was true.
25 Q No. 7, marked tolerance. "Need for

http://legacy.library.ucsf.edu/tid/dfp37a00/pdf Source: https://industrydocuments.ucsf.edu/docs/gjxl0001

1 markedly increasing amount of substance in order
2 to change intoxication or desired effect." Now,
3 Sam did meet that, did he not?
4 A Yes.
5 Q And obviously, every smoker meets that
6 criteria, do they not?
7 A Not every smoker.
8 Q How about 90 percent of them?
9 A We would agree that a substantial
10 percentage. If you want to use 90 percent, fine.
11 Where we're differentiating it from is people who
12 are intermittent or binge smokers.
13 Q Everybody who smokes daily?
14 A Everybody who smokes a substantial
15 amount daily. A person who smokes one cigarette
16 a day obviously doesn't count.
17 Q More than five?
18 A Well, you pick the number. I'm not
19 agreeing with the number.
20 Q Tell me a number.
21 A The number varies considerably from
22 person to person, how they smoke and so on. We
23 have a case before us, and the case before us is
24 somebody who was smoking X number of cigarettes
25 per day of a particular brand. We can't make a

http://legacy.library.ucsf.edu/tid/dfp37a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

1 generic statement about all people and all
2 cigarettes.
3 Q If Sam had smoked five cigarettes a day
4 instead of a pack and a half a day, would you
5 make the same statement? Would you find him
6 dependent?
7 A I've told you that it is my opinion
8 that he was dependent.
9 Q Would this criteria, no. 7, apply to
10 anyone who smokes a pack a day?
11 A Which criteria?
12 Q No. 7, tolerance.
13 A Okay. No. It gets back to the
14 question of how they smoke.
15 Q Going on in your report here ---
16 A (Interrupting) I mean, for example,
17 someone who allegedly smokes a pack a day and
18 doesn't inhale, right?
19 Q Right. Or someone who eats the
20 cigarettes and doesn't ---
21 A (Interrupting) Well, that's an
22 interesting possibility.
23 Q The March 1 report, Doctor, at the top
24 of the page, you say that, "Mr. Allgood's
25 dependence was either moderate or severe using

http://legacy.library.ucsf.edu/tid/dfp37a00/pdf Source: tobacco industry documents ucsf.edu/docs/gjxl0001

1 the criteria to determine severity by this widely
2 used diagnostic system," again referring to
3 DSM-III-R, correct?
4 MR. CRUSE: I'm sorry. I
5 didn't hear the answer. I didn't.
6 Did he answer it?
7 MR. RILEY: There wasn't one.
8 Q I'm sorry. I thought you were
9 following along with me.
10 A I was following along here. What is it
11 you're -- Oh, okay.
12 Q "Was either moderate or severe."
13 A I would like to make a comment.
14 Q Sure.
15 A I've read a number of depositions in
16 which Mr. Cruse was present. I have been frankly
17 astounded by some of the things that were said in
18 those depositions, and I really don't think that
19 I have to put up with this.
20 MR. CRUSE: Well, in response
21 to what you said, I didn't hear
22 your answer; and I thought it was
23 a fairly easy question to answer.
24 And I'm insulted by the way you've
25 dodged and crawfished and not

http://legacy.library.ucsf.edu/tid/dfp07a00/pdf Source: tobacco industry documents ucsf.edu/docs/gjxl0001

given any answers, if you want to get personal about this.

THE WITNESS: I'm sorry that I've insulted you.

MR. CRUSE: As Mr. Holford says, we have the record that will explain exactly what everybody in this room has done, including yourself.

Q Doctor, my question was ---

THE WITNESS: (Interrupting) It certainly was not my intent to, quote, dodge or crawfish, I believe was the word.

Q Doctor, my question was really devoted to simply saying that the diagnostic system referred to in your paragraph was DSM-III-R?

A Yeah. I said that he was severely dependent; and I think the constellation of things, even though they aren't represented by, for example, nine out of nine on this or eight out of nine, the gentleman was pretty severely dependent. And I think that you have already pointed out why that is true. There are some difficulties in the classification system that

http://legacy.library.ucsf.edu/tid/dfp07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

result in similarities of cross-directed dependencies.

Q I think that's well established in the record, Doctor. Now, you go on, though, to say that based on a number of criteria, et cetera, "However, based on the persistence and duration of the behavior." You see what I'm referring to?

A Yes.

Q "And the fact that he may have ultimately died due to use of cigarettes, it could be stated his dependence was severe." Let me just ask you, Doctor, if you had the first part of that sentence, "based on the persistence and duration of the behavior," could you conclude his dependence was severe?

A Based on the duration and persistence of the behavior, I think that his dependence was severe, yes.

Q So, we don't need the fact that he may ultimately have died due to use of cigarettes?

A It entered into it -- You can say with respect to his dependency you don't need that. It entered into it in an interesting way that he did stop when he found out he had the disease.

Q But that wasn't diagnostic of the

http://legacy.library.ucsf.edu/tid/dfr07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

severity of his dependence, the fact that he stopped?

A No, no, no. I didn't say that.

Q Doctor -- And again, just for the record, the persistence and duration of the behavior as a determinant of severity is your criteria, not the DMS-III-R?

A Well, I believe you'll find in there in other areas issues about persistence. The primary source for some of that -- Persistence is inferred from some of these. You'll find in the Surgeon General's report discussion of severity and, indeed, in some of the things that we referred to earlier that I've added as one of the issues that we addressed at some of those meetings about how to identify severity. But certainly, I would stand on the notion that persistent use and the duration of use could contribute to a statement about his severity.

Q Doctor, I shutter to ask this. The Surgeon General's criteria that you referred to add nothing to your diagnosis in this case that we haven't already discussed, do they?

A Actually, if you read the next paragraph of that letter, of this letter, those

http://legacy.library.ucsf.edu/tid/dfp37a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

1 things are in the Surgeon General's report.
2 Q Right. I mean, I know. We've already
3 discussed them, the fact that the psychoactive
4 effects of nicotine is what Sam ---
5 A (Interrupting) Frankly, I think that
6 they're in some ways more clearly stated.
7 MR. SHEFFLER: Off the
8 record.
9
10 (AT THIS TIME THERE WAS A
11 BRIEF OFF-THE-RECORD DISCUSSION,
12 AFTER WHICH THE PROCEEDINGS
13 RESUMED AS FOLLOWS:)
14
15 (By Mr. Sheffler)
16 Q Doctor, what was the evidence of highly
17 controlled or compulsive use?
18 A That he continued to use and he did it
19 in a pattern which we can identify in both the
20 laboratory and the clinic that is, quote, highly
21 controlled or compulsive use. It's persistent
22 use over time, a long period of time, regular use
23 throughout the day, getting up in the middle of
24 the night to smoke and so on.
25 Q The only thing that is different with

http://legacy.library.ucsf.edu/tid/dfp37a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

1 Sam than any other smoker was getting up in the
2 middle of the night to smoke? Every smoker who
3 smokes daily for a period of time would fit
4 highly controlled or compulsive use?
5 A That's correct.
6 Q So, the only thing that Sam has in
7 addition to what every other smoker has is that
8 he smoked in the middle of the night?
9 A I don't -- You know, we aren't talking
10 about other smokers. Some smokers get up and
11 smoke, and some don't. Some get up early in the
12 morning and smoke. But, that's right, that is a
13 characteristic of people who are nicotine
14 dependent.
15 Q Is there anything else that you are
16 going to rely upon when you discuss why Sam
17 Allgood exhibited highly controlled or compulsive
18 use of cigarettes?
19 A You have the list in this paragraph of,
20 if you will, more specific or differently worded
21 criteria as they appear in that Surgeon General's
22 report.
23 Q Doctor, I'm asking you for support,
24 evidence that Sam's use of cigarettes was highly
25 controlled or compulsive. I want evidence of

http://legacy.library.ucsf.edu/tid/dfp07a00/pdf Source: https://industrydocuments.ucsf.edu/docs/gjxl0001

1 that.
2 A And I have told you the main data we
3 have have to do with the way he used cigarettes.
4 Q Well, you told me the fact he used them
5 daily, the fact he used them for a long period of
6 time, and the fact that he woke up in the middle
7 of the night. Is there anything else?
8 A There were the added comments in there
9 that we discussed earlier, that he always had
10 cigarettes within easy reach, that they were
11 always readily available and so on. We talked
12 about that earlier.
13 Q I know. But I'm trying to get it in
14 terms of highly controlled and compulsive use.
15 We've got four things now. We've got the fact
16 that cigarettes were readily available to him.
17 We've got the fact that he smoked daily. We've
18 got the fact that he smoked for a long period of
19 time, and we've got the fact that he woke up
20 occasionally during the middle of the night and
21 smoked. Anything else that was evidence of the
22 fact that his smoking behavior was highly
23 controlled and compulsive?
24 MR. HOLFORD: Objection. The
25 summary misstates the evidence.

http://legacy.library.ucsf.edu/tid/dfc07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

1 It's not complete.
2 MR. SHEFFLER: That's why
3 I said, "Is there anything else?"
4 MR. HOLFORD: You represented
5 that that's his testimony.
6 MR. SHEFFLER: He sucked me
7 into that.
8 (By Mr. Sheffler)
9 Q I'm sorry, Doctor. Go ahead.
10 A I think we've covered a number of these
11 points before and I'm not going to rehash them
12 all; but it's that constellation of things. I
13 state, for example, in the next sentence of this
14 March 1 letter the issue about stereotypic
15 behavior, to which I would agree with you, should
16 you happen to ask the question, that all smokers
17 engage in stereotypic behavior. Indeed, all
18 cocaine dependent people engage in stereotypic
19 behavior. Those are the -- These are the issues
20 in drug abuse and dependence.
21 Q Well, I'm glad you added that because I
22 don't have to ask you about that. But all
23 smokers also experience psychoactive effects from
24 nicotine?
25 A And so all do cocaine users and so do

http://legacy.library.ucsf.edu/tid/dfp07a00/pdf Source: https://industrydocuments.ucsf.edu/docs/gjxl0001

all heroin users and so ---

Q (Interrupting) And so do all caffeine users and so do all people who drink Coke and drink coffee and ---

A (Interrupting) And the relative time of various things is different.

MR. HOLFORD: Object to Counsel testifying.

MR. CRUSE: Object to it as being nonresponsive.

MR. SHEFFLER: I object to all the multiple objections.

(By Mr. Sheffler)

Q Doctor, finally, the drug reinforced behavior, every daily smoker who smokes for a long period of time has a drug reinforced behavior; is that correct?

A That's correct.

Q Now, turning to your November 8th report, Doctor, if we may.

A Yes.

Q Again, the questions on here -- Excuse me. The answers in the November 8th report were answers to questions that were posed to you by Mr. Holford in Exhibit -- I believe it's 2; is

http://legacy.library.ucsf.edu/tid/dfr07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

1 that correct, Doctor?
2 A That's correct.
3 Q There was one question on Exhibit 2
4 that I didn't see an answer for. And it was on
5 the second page, and the question was -- Let's
6 see. I can't find my copy. Oh, here it is.
7 "What is your response to assertions like, 'Sam
8 could have quit if he wanted to,' and, 'It was
9 Sam's choice to keep on smoking'?" I didn't see
10 a correlative answer to that question in your ---
11 A (Interrupting) That isn't a very
12 meaningful comment. I mean, the comment that you
13 find there is simply -- I mean, to say that
14 somebody could quit if they wanted to, I mean, we
15 have evidence from cocaine users and opiate users
16 and alcohol users and nicotine users, quote, that
17 they want to quit and despite all of those
18 acclamations, they don't quit. We infer from
19 that they can't quit. So, it's just not a very
20 fruitful ---
21 Q (Interrupting) Is that true, Doctor?
22 You told me before that you can't believe people
23 necessarily when they say that they want to quit.
24 A And that's -- I think I'm being
25 responsive. The point here is that issue was

http://legacy.library.ucsf.edu/tid/dfp07a00/pdf Source: tobacco industry documents ucsf.edu/docs/gjxl0001

1 raised to me, and I really don't have much to say
2 about it.
3 Q That's why you didn't respond?
4 A I mean, it is common conversation about
5 the severe difficulties that drug dependent
6 people have; and it's one of the arguments that
7 these are, quote, just habits, or you can pull
8 yourself up by your boot straps and so on. And
9 there's ample scientific evidence that shows that
10 drug dependent people don't have that simple
11 solution available to them.
12 Q Well, let's talk again about Sam.
13 Could Sam quit if he wanted to? And the answer,
14 of course, is "yes," because he did in 1987,
15 right?
16 A Under a specific set of circumstances,
17 he did quit.
18 Q And if he wanted to quit in 1986, he
19 could have?
20 A Apparently not.
21 Q Well, it was physically possible for
22 him if he wanted to, wasn't it?
23 A It appears that he was unable to quit
24 in 19 ---
25 Q (Interrupting) What basis in fact or

http://legacy.library.ucsf.edu/tid/dfp37a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

1 fancy do you have for that statement? You just
2 told us you don't know if he ever wanted to quit
3 in his whole life. How can you say that he
4 couldn't in 1986?
5 A I go back to the data that we have. He
6 did not quit, and I don't know whether he wanted
7 to or not.
8 Q So, how can you say that he couldn't?
9 If he didn't want to quit ---
10 A (Interrupting) I said to you that he
11 didn't.
12 Q Okay. He didn't quit. How does that
13 say he couldn't?
14 A My only response to you can be: He did
15 not quit.
16 Q I didn't run around this table during
17 this whole deposition; but that doesn't mean I
18 can't, does it? Would you infer that I am
19 incapable of running around this table because I
20 didn't do that today?
21 A In your case? I would infer ---
22 MR. DAVID: (Interrupting)
23 For a lot of reasons, not just
24 that.
25 A I would infer that in this set of

http://legacy.library.ucsf.edu/tid/dfp37a00/pdf Source: tobacco industry documents ucsf.edu/docs/gjxl0001

circumstances, that isn't something that you would do.

Q But I have the physical capability of doing it if I wanted to, don't I?

MR. HOLFORD: Objection. This entire line is argumentative.

MR. SHEFFLER: You're right.

MR. COWAN: And very effective.

MR. SHEFFLER: That's what a cross-examination is all about. I'm cross-examining the witness to find out the opinions he has in this case and the basis for them. He's made an opinion, Mr. Holford, that I find incredible, the fact that Sam Allgood could not quit smoking in 1986. I want to find the basis for it.

MR. HOLFORD: And I don't doubt that you, representing the client that you do, find that incredible, Mr. Sheffler.

MR. SHEFFLER: Okay. Fine.

(By Mr. Sheffler)

http://legacy.library.ucsf.edu/tid/dfp37a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

Q Doctor -- By the way, I keep calling you "Doctor" or "Mr." Which is it? Is it Doctor?

A People in my professional environment call me Dr. Grabowski. What can I say to you?

Q Doctor, what is the basis for your statement that Mr. Allgood could not quit smoking in 1986 other than he didn't?

A We have a great deal of evidence from a wide variety of drug users about persistent drug use; and you would agree, I believe, and other people would agree in looking at them that, frankly, they can't quit. That's why we develop programs to help them, to treat them. And ironically and interestingly, there are many people who do quit for reasons that aren't very clear at any given moment for the quitting; and we've talked about that, as well. Some people have been smoking for a long time and they quit, as Mr. Allgood did, when they get a certain kind of information. And we don't know very much about how that can happen. What we know about Mr. Allgood is that he smoked for a long period of time, he exhibited the kind of behavior that indicates dependence, and he made no effort to

http://legacy.library.ucsf.edu/tid/dfp37a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

1 quit. Now, you would say, "Well, and for that
2 reason, he doesn't meet the criteria about
3 persistent attempts to quit." You're right. And
4 I said to you much earlier today that there's
5 that irony for people who are severely dependent,
6 who are so dependent, if they don't try to quit,
7 that we don't have the evidence of their trying
8 to quit. So, it's a circular problem.
9 Q We don't have the evidence that they
10 want to try to quit?
11 A We have evidence that -- We do have
12 evidence in Mr. Allgood's case that - again, via
13 depositions only from the various family members,
14 that there were some efforts made to - to get him
15 to quit. He did not quit.
16 Q Doctor, there is a typology at work
17 here that I'm having a bit of trouble with.
18 A And we agreed that ---
19 Q (Interrupting) Every dependent smoker
20 who doesn't quit smoking does not have the
21 ability to quit, but every dependent smoker who
22 does quit smoking does have the ability to quit?
23 Is that what we're saying?
24 A I would agree that it is very
25 difficult. And what we have already discussed is

http://legacy.library.ucsf.edu/tid/dfp37a00/pdf Source: tobacco industry documents ucsf.edu/docs/gjxl0001

1 there are cocaine users and heroin users and so
2 on who, under a particular set of conditions - we
3 do not always know what those conditions are -
4 stop using their respective drugs. And there are
5 many users who continue on to severe
6 consequences.
7 MR. BIERSTEKER: Objection.
8 Move to strike the last portion of
9 that answer as unresponsive.
10 A We don't understand all of those
11 things, but we can look at individual cases.
12 Q Doctor, I'm really talking about
13 smokers for a minute here; and I'd like to focus
14 on that, if I could. As I understand what you're
15 saying, there are millions and millions of
16 smokers who are severely dependent who smoke
17 cigarettes today. There are millions and
18 millions of smokers - of ex-smokers who, at one
19 time, were severely dependent who no longer smoke
20 cigarettes today.
21 A Yes.
22 Q And as I understand it, Doctor, you
23 have no way to distinguish one from the other
24 except by whether or not they wanted to quit?
25 A I have not used the word "wanted to

http://legacy.library.ucsf.edu/id/dfp07a00/pdf Source: https://industrydocuments.ucsf.edu/docs/gjxl0001

1 quit," or the phrase.
2 Q Except in terms of whether or not they
3 did quit? How is that?
4 A Frankly, we've been through this
5 before. I've tried to explain that you can set
6 up conditions where people who are severely
7 dependent drug users cannot use drugs, even
8 though they don't want to quit.
9 Q I'm talking about cigarette smokers.
10 Let's just deal with cigarette smokers.
11 A Well, I don't see the difference that
12 you seem to see in that regard.
13 Q You don't jail cigarette smokers for
14 smoking.
15 A I can tell you that cocaine dependent
16 patients come to us because they've had infarcts
17 or near infarcts or cardiovascular experiences.
18 They've been sent over from the emergency room
19 with an alleged intent and interest in quitting;
20 and the next day, they're out the door and
21 they're using cocaine again. I can also tell you
22 with respect to cigarette smokers that a study
23 that one of my co-authors here is conducting,
24 heart attack patients who are smokers go out the
25 door and they - and smokers for whom it was

http://legacy.library.ucsf.edu/tid/dfp37a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

clearly identified that they - that smoking was related to their heart attacks go out the door and they start smoking again. And that's despite intensive treatment.

MR. CRUSE: Objection; nonresponsive.

Q Doctor, you referred to that in paragraph 6 here. Have you also, Doctor -- Are you also aware of studies of people with hypertension who, even though they have been counseled, even though with severe counseling, they don't take their medicine? Are you familiar with those studies?

A I am familiar with the fact that ---

Q (Interrupting) Noncompliance?

A I am familiar with the remarkable noncompliance across a whole range of medical disorders, most commonly observed at the convergence of many behavioral elements and medical elements where it's truly behavioral medicine, if you will, things that are less clear. Like I can give somebody a series of injections of antibiotics and get rid of the disease. People are pretty compliant with that.

Q But where people have to take

http://legacy.library.ucsf.edu/tid/dfr07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

1 medications over a period of time and they don't
2 feel sick, they don't take the medicine, true?
3 A And that's true with psychiatric
4 patients.
5 Q And you're familiar with people who
6 have hypertension or who have high cholesterol
7 and have been advised that their next heart
8 attack could be their last and they don't stick
9 to their cholesterol diet?
10 A That's right.
11 Q And they're not addicted to food, are
12 they? They're not addicted to chocolate cake and
13 ice cream, are they? Or are they?
14 A I guess we're all dependent on food one
15 way or another, aren't we?
16 Q Well, we're not dependent upon fatty
17 foods, are we?
18 A From behavior history, perhaps, some
19 people are. Or some would make that argument. I
20 really don't know enough about ---
21 Q (Interrupting) And according to you,
22 some people are unable to go on a low cholesterol
23 diet because they don't, even though they should?
24 Is that what you're saying?
25 A I'm not making that argument.

http://legacy.library.ucsf.edu/tid/dfp37a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

1 Q But you're making the argument for
2 smokers? If a smoker is told that he has a
3 chance of dying from emphysema or he has a chance
4 of dying of lung cancer and he continues to smoke
5 and he doesn't quit, that means he can't quit, in
6 your estimation; is that correct?
7 A I think we have both ample data from
8 our own works, ample data from Bigelow's work at
9 Hopkins, Crowley's work with the very people
10 you're talking about, chronic obstructive lung
11 disease, patients in Colorado, that despite
12 rather heroic efforts on the part of the
13 practitioners, people are unable to quit smoking.
14 That goes to the point of drug dependence is a
15 pretty terrible thing, pretty powerful; and it
16 sustains a lot of behavior.
17 Q And people -- Even with the risk of
18 lung cancer posed to them, the risk of emphysema
19 posed to them, people can make a decision that
20 they don't want to quit, that they want to
21 continue smoking, can't they? People can make
22 that decision, can't they?
23 A People could make that decision.
24 Q People do make that decision, don't
25 they?

http://legacy.library.ucsf.edu/tid/dfp37a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

1 A You're telling me.
2 Q Well, I'm asking you if you have ever
3 met a smoker who said to you, "Yeah, I know
4 there's a risk of lung cancer here; but I want to
5 keep smoking. I like it. I want to smoke."
6 Have you ever met anybody like that?
7 A I guess I haven't talked to anybody
8 like that for a long time.
9 Q Do you think there are people like that
10 today?
11 A I really don't know.
12 Q Do you think Sam Allgood was like that?
13 A I don't -- From my reading of it, no.
14 Q You think Sam Allgood wanted to quit
15 smoking before 1987?
16 A I didn't say that.
17 Q Fine. Why don't you think Sam Allgood
18 was like the people who say, "Yeah, there's a
19 risk; but I like it. I want to do it"? Why
20 don't you think he fit that?
21 A One of the things that was so
22 interesting to me was the description about --
23 And we're arcing back to things we've covered
24 already today, and I certainly hope this isn't
25 unresponsive. His interesting conception or

http://legacy.library.ucsf.edu/tid/dfp07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

belief that whereas he was at risk for cancer from a variety of things, nitrosamines and God knows what all else, he appeared to think that because he had smoked so long, he had this invulnerability to diseases related to tobacco.

Q Let's talk about ---

A (Interrupting) Now, you want to ask me do I understand how people come to such belief? I don't; and yet, I see them all the time.

Q Aren't you familiar with rationalizations, Doctor? When people have a behavior -- Sam Allgood didn't want to get cancer, did he?

MR. HOLFORD: Objection; compound question.

Q Sam Allgood didn't want to get cancer, did he?

A That was the report, that Sam Allgood was deathly afraid of cancer.

Q Sam Allgood also wanted to smoke cigarettes?

A That's correct.

Q Now, Sam Allgood engaged in an activity that he knew created a risk for lung cancer for him, did he not?

http://legacy.library.ucsf.edu/tid/dfr07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

A I would say to you that apparently, he was unaware of this; and there seems to be that strange disposition of those two facts. You're stating that he knew that. I'm not agreeing with you.

Q Let me ask you this, Doctor: Let me see if this would fit the information and facts that you have. Sam Allgood didn't want to get cancer. Sam Allgood wanted to smoke cigarettes. Sam Allgood knew that smoking cigarettes posed a risk of lung cancer. Sam Allgood rationalized those two conflicting desires in his own mind by saying, "Yeah, maybe smoking causes lung cancer for some, but not for me, because I've got good genes; so, it's not going to happen to me. It's going to happen to the other guy." Would that fit the information we have about Sam Allgood; and if not, why?

A You've just made a lengthy statement to the thinking of Sam Allgood, and I had said to you quite simply several times before that he seemed to think that he was impervious to smoking in terms of lung cancer. You've stated a number of things that I haven't read anywhere, that I have not said. You've stated your opinion. You

http://legacy.library.ucsf.edu/tid/dfp37a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

1 have not stated my opinion.
2 Q I'm giving you a set of circumstances;
3 and I'm asking you, Doctor, if you know of
4 anything in the record that suggests that that is
5 wrong. Can you say with a professional degree of
6 certainty that Sam Allgood believed he was
7 impervious to the effects of smoking because he
8 wanted to rationalize his continued smoking in
9 the face of the evidence that smoking was related
10 to an increased risk of lung cancer?
11 A I'm sorry. I think I've really
12 answered this set of questions.
13 Q You didn't answer this one, Doctor.
14 You really didn't. Let me ask it again.
15 MR. HOLFORD: I think he did.
16 Q You know what rationalization is, do
17 you not? You've heard of the concept of
18 cognitive dissonance, have you not? Doctor, you
19 really have to answer "yes" to that, or "no."
20 A Yes.
21 Q Yeah, you know what cognitive
22 dissonance is. Isn't it true that when people
23 want to engage in two conflicting things -- He
24 wants to engage in an activity that he knows
25 poses risks for the general population. One way

http://legacy.library.ucsf.edu/tid/dfp37a00/pdf Source: tobacco industry documents ucsf.edu/docs/gjxl0001

1 to resolve that conflict is to say, "It's not
2 going to happen to me." That's true, isn't it?
3 That's a way to resolve it, isn't it?
4 A I'm sorry. I think that you're making
5 these statements essentially outside of your area
6 of expertise, and I'm really -- I've tried to
7 answer your question for you. And what I have
8 said to you is, we can give any kind of label we
9 want to it and you can come up with theory from
10 psychiatry or psychology that would provide a
11 description for what you're talking about and
12 substantiate it one way or the other.
13 Q One way or the other? We could
14 substantiate it one way or the other?
15 A We could do whatever we wanted, I'm
16 sure, with words. What I am saying to you is ---
17 Q (Interrupting) You could.
18 A No. You could.
19 What I'm saying to you is that he
20 believed, if we can use that word, that he had
21 this shield, as it's reported. And I have to
22 believe what Bonnie Allgood and Malcolm and
23 Marcus said, that he believed that he had this
24 shield and that he explicitly stated to his wife
25 that he had smoked so long and, essentially, if

http://legacy.library.ucsf.edu/tid/dfp37a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

1 it was going to happen, it would have happened.
2 That would lead me to believe that he didn't
3 believe that he would get cancer.
4 Q Right.
5 A And thus, if you had someone who
6 believed that they wouldn't get cancer, why in
7 the world should they quit smoking, I suppose.
8 Q So, you don't have any evidence that
9 Sam couldn't quit smoking because he didn't,
10 because he didn't have any reason to quit
11 smoking; isn't that right? How can you say he
12 couldn't quit smoking? The mere fact that he did
13 not indicates he had no reason to, according to
14 you?
15 A This whole issue is a side issue about
16 his belief, which you were discussing. What I'm
17 telling you is: He smoked cigarettes. We have
18 no evidence that he could quit until a certain
19 event occurred: Effectively, he was told he was
20 going to die.
21 Q We had no evidence that he could not
22 quit. If Sam Allgood got hit by a truck on
23 February 16th, 1987, could you state that he
24 could not quit smoking?
25 A This logic is wonderful. You know,

http://legacy.library.ucsf.edu/tid/dfp07a00/pdf Source: tobacco industry documents ucsf.edu/docs/gjxl0001

we're going to go through this a number of times, I guess.

MR. RILEY: Was there an answer to the question?

THE WITNESS: Was there a question?

MR. RILEY: Yeah, there was.

MR. HOLFORD: I object to the question as irrelevant and not in any way likely to lead to relevant evidence in this litigation.

MR. BIERSTEKER: Is that one of those objections that you can obviate?

MR. HOLFORD: That's not a form of question but it is a Rules objection and I choose to raise it now.

MR. SHEFFLER: I'd love to respond, but we don't have enough time. But if you really think that whether or not Sam Allgood could quit smoking is irrelevant to this case ---

MR. HOLFORD: (Interrupting)

http://legacy.library.ucsf.edu/tid/dfr07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

1 Your question, Mr. Sheffler, was
2 if a truck hit him. I mean,
3 that's not specific.
4 (By Mr. Sheffler)
5 Q Doctor, let's go off this for a second
6 and see if we can productively move ahead in
7 another area.
8 MR. DAVID: Let's see if we
9 can get equally confused in some
10 other area.
11 MR. HOLFORD: Object to
12 sidebar, Mr. David.
13 MR. DAVID: It was an
14 attempt, Mr. Holford, at
15 reasonably good humor and to, you
16 know, lighten up the air in here.
17 MR. HOLFORD: All right.
18 Then I withdraw my objection.
19 MR. DAVID: Maybe I'll get
20 out my bottle of Renuzit instead,
21 which may help more.
22 MR. CRUSE: I'll object to
23 the futile attempt.
24 MR. DAVID: I thought it was
25 a very good one.

http://legacy.library.ucsf.edu/tid/dfp37a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

1 MR. BIEKSTEKER: That's all
2 relative.
3 MR. CRUSE: Or irrelative.
4 MR. HOLFORD: Mr. Sheffler,
5 if you'll permit me, it's now 18
6 until 5; and I need to know about
7 Dr. McCue.
8 MR. SHEFFLER: He pays for
9 this part of this, please. He
10 pays for this.
11 MR. HOLFORD: Yeah. I need
12 to know about Dr. McCue and
13 whether I can call my agency and
14 make my plane reservations by
15 5:30. It's a quarter until 5 now.
16 MR. CRUSE: What, do you have
17 to get your ticket today?
18 MR. HOLFORD: Yes, sir.
19 MR. CRUSE: We're going to do
20 it, aren't we? I mean, do you
21 need to check with the doctor and
22 make sure?
23 MR. SHEFFLER: As I told
24 Mr. Holford ---
25 MR. CRUSE: (Interrupting)

http://legacy.library.ucsf.edu/tid/dfp37a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

We'll check on it. I mean, I don't know.

MR. SHEFFLER: I told Holford all I know. I told him he's free to do whatever he wants to. I don't care.

MR. HOLFORD: But Mr. Riley said he wasn't sure that Dr. McCue was going to be available at 4:00 on Thursday.

MR. RILEY: No, I didn't. I said Bruce has spoken with him.

MR. HOLFORD: Is he going to be available or not?

MR. SHEFFLER: I told you. I left word that you were going to take his deposition at 4, and I have not heard back from him confirming that that's still an appropriate date.

MR. HOLFORD: So, do you conclude that it ---

THE WITNESS: (Interrupting) While you guys discuss this, can we take a break?

http://legacy.library.ucsf.edu/tid/dfr07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

MR. SHEFFLER: He wants to do this on the record. You can go ahead and take a break. He's paying for this part, anyhow. So, I'm sorry we're going to have to deduct this from your ---

MR. HOLFORD: (Interrupting) All I need is ---

MR. CRUSE: (Interrupting) Why does this have to be on the record?

MR. HOLFORD: Because it's very important.

MR. CRUSE: Well, we don't want to talk about it, then. We'll talk about it off the record.

MR. HOLFORD: All I need is Mr. Riley or Mr. Sheffler's word that I can go ahead and buy my ticket. It's a nonrefundable ticket, in reality.

(AT THIS TIME A BRIEF RECESS WAS TAKEN, AND THE PROCEEDINGS

http://legacy.library.ucsf.edu/tid/dfr07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

1 THEREAFTER RESUMED AS FOLLOWS:)

2

3 (By Mr. Sheffler)

4 Q Doctor, I'd like to turn back to your

5 report dated November 8th, 1993.

6 A Yes.

7 Q On paragraph 10, you are responding to

8 a question about a hypothetical warning; and I'd

9 like to make sure that the question you were

10 responding to was one written by Mr. Holford that

11 states the following: "What would be the effect

12 on addicted smokers if the tobacco industry put

13 on all packs and ads: 'It is true that tobacco

14 use is severely addicting and causes diseases,

15 including cancer, emphysema, or heart disease and

16 kills over 434,000 Americans each year'?" And

17 your response was, "It would affect different

18 people differently. Presumably it would be

19 meaningless to those who are illiterate and have

20 difficulty reading and would have less effect on

21 those who did not understand the complexities of

22 the warning of diseases. In itself, it may have

23 little effect on severely dependent smokers."

24 That is the answer to the hypothetical

25 Mr. Holford posed?

http://legacy.library.ucsf.edu/tid/dfp37a00/pdf Source: tobacco industry documents.ucsf.edu/docs/gjxl0001

A Yes.

Q That's just a prefatory question, Doctor.

I'd like to change the hypothetical a bit and ask the question this way: What would be the effect on Sam Allgood if the tobacco industry put on all its packs and ads before February 17th, 1987, "It is true that tobacco use is severely addicting and causes diseases," et cetera, et cetera, et cetera? What would have been the effect on Sam Allgood?

A When was this put on the package in your hypothetical?

Q Before February 17th, 1987.

A In 1986 or 1942 or ---

Q (Interrupting) Yeah.

A I mean, when before?

Q Any time before.

A I think it would have different effects at different times.

Q Okay. 1966.

A I think that at that time it would have had -- He was severely dependent. It would not necessarily have led him to stop smoking.

Q Would it have led him to decide to stop

http://legacy.library.ucsf.edu/ad/dfr07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

smoking?

A I'm not sure that I can distinguish between deciding to stop and stopping. I'm not clear -- Are you asking that question differently or...

Q Yeah. Some people decide to stop smoking and don't.

A He might have decided to try to stop smoking in the face of that message in 1966. My comment to you was that had the environment existed when he was 6 or 7 or 12 or 13 and the whole view was such that that was the prevalent view, he might have been less subject to start smoking. In 1966 when he had been smoking and had an extensive history, was a persistent user, it would have had a certain different effect. It might have led to the thing that you're describing, which is he might have thought about it, might have tried, and might have failed.

Q In 1966, did he believe he had a shield?

A I really don't know when that belief came to be or when he stated -- I don't recall when he stated it to his wife.

Q If he believed he had a shield, would

http://legacy.library.ucsf.edu/ad/dfp37a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

1 he have tried to quit smoking?
2 A Given the broad range of things that
3 you've described, of disorders, I believe the
4 shield comment was in relation to lung cancer;
5 but I think there are some things about other
6 disorders there, as I recall.
7 Q Emphysema and heart disease.
8 A Heart disease, yeah. He may not have
9 thought he had a shield to heart disease. And
10 thus, your hypothetical, he may have -- He may
11 have said, "Oh, my God, I'm going to have a heart
12 attack," and stopped, tried to stop or decided to
13 stop but been unable to stop because he was
14 nicotine dependent, in my hypothetical.
15 Q Let me break this down. In your
16 opinion, Doctor, Sam Allgood, then, could
17 understand the warning and could make a decision
18 that he wanted to stop smoking but - but be
19 unable to do so?
20 A People can -- I mean, that's an
21 interesting area of research. People can, quote,
22 understand and they can respond to you that they
23 understand, they can answer questions about it;
24 and yet, as indicated by their behavior, some of
25 us would believe they don't really understand.

http://legacy.library.ucsf.edu/tid/dfp37a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

1 For example, the patient who is cocaine dependent
2 who has just had an infarct to whom we say, "Hey,
3 that's related to your cocaine use. Do you
4 understand that? You really should stop," and
5 they say, "Yeah, I understand that," and then
6 they go out and they use cocaine. Well, it seems
7 to me there's a disjunction between their
8 behavior and what they claim to understand.
9 MR. CRUSE: Nonresponsive.
10 Object it to.
11 Q And, Doctor, there's two explanations,
12 is there not? One is he didn't understand. Two
13 is he understood but he didn't want to quit?
14 A There's a third one. And the third
15 possibility is he did understand, he really
16 tried, he really, quote, wanted to quit and was
17 simply unable to.
18 Q Okay. So, three answers.
19 A And I think if you read the end of that
20 statement, it says, "In itself, the warning may
21 have little effect on severely dependent
22 smokers." And I think if you look at the
23 literature, you'll find that warnings of that
24 sort are most commonly effective with people on
25 the margins, not people who are severely

http://legacy.library.ucsf.edu/tid/dfp37a00/pdf Source: tobacco industry documents.ucsf.edu/docs/gjxl0001

dependent.

Q By 1956 or -- I think you said 1946. Excuse me. Or '49, Sam Allgood was severely dependent; is that correct?

A He was certainly nicotine dependent at that time.

Q Was he severely dependent?

A If you want to relate it to duration, he was, let's say, mildly dependent and working his way toward severely dependent.

Q By 1956, was he severely dependent?

A I can't put a date certain on it. I think it's a continuous and progressive process.

Q So, therefore, you cannot state with a professional degree of certainty that if this warning had been given to Sam Allgood in 1956, he would have stopped smoking? You can't say that with a professional degree of certainty, can you?

A I think that people who are drug dependent, ignoring shades of severity, but in this case, people who are smoking every day are - and we can only do this by comparison - are less affected by such things than people who are not severely dependent.

Q And you state, Doctor -- And really, I

http://legacy.library.ucsf.edu/tid/dfr07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

would like to have a "yes" or "no" answer to this question or an answer that it cannot be answered "yes" or "no." And then you can give any explanation you want. But this is important enough that I want you to focus on it and carefully answer it "yes" or "no" if you can.

If the hypothetical warning proposed by Mr. Holford had been given to Sam Allgood in 1956, can you state with a reasonable degree of professional certainty that he would have stopped smoking at that time and never smoked again? Can you state that with that degree of certainty?

A Based on that statement alone? I'm just ---

Q (Interrupting) Based on that statement appearing on all packs and ads, is the way the hypothetical reads.

A I expect that he would not have been able to stop.

Q Thank you. Now, Doctor, if that statement ---

THE WITNESS: (Interrupting) Can I -- Is that reading, "I expect he would not have been able to stop"?

http://legacy.library.ucsf.edu/tid/dfr07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

(AT THIS TIME THE COURT REPORTER READ BACK THE REQUESTED PORTION OF TESTIMONY.)

(By Mr. Sheffler)

Q So, the answer to my question as posed, Doctor, was: "He would not have stopped smoking and never smoked again"? The answer to that question is "yes" or "no"?

MR. HOLFORD: He just answered it.

Q He would not be able to stop; therefore, he would not have stopped smoking? Is that your answer?

A I said he would not have been able to stop smoking, based on that warning alone.

Q Therefore, he would not have stopped smoking?

A And I'm afraid that I've said that several times and that that is -- That is pretty clearly stated in this letter. It says, "In itself, it may have little effect on severely dependent smokers."

Q Well, I'm trying to get at Sam Allgood in 1956.

http://legacy.library.ucsf.edu/tid/dfr07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

1 A We've defined him as a severely
2 dependent smoker and we've said -- And I think he
3 was severely dependent then, but you could argue
4 about the shades of that. He didn't have as long
5 a history at that point and so on. But what I
6 did say was: In itself, if you're defining him
7 as a severely dependent smoker, that may have had
8 relatively little effect on him, just as the
9 other kinds of warnings have little effect on
10 cocaine users, opiate users, alcohol users, and
11 so on.
12 Q Doctor, let me ask you this question:
13 If that warning had been on all the packs and ads
14 in 1956, would Sam Allgood have decided he wanted
15 to try to stop smoking?
16 You can answer, "I don't know," "yes,"
17 "no."
18 A I can answer any way I want.
19 I think the issue here -- As you well
20 know, the issue here with respect to labeling of
21 that sort is it occurs in milieu, a whole social
22 change that goes on. Those labels weren't put on
23 until a lot of other things had happened. In
24 that social milieu which there was in the press
25 as those labels became evident later, he might

http://legacy.library.ucsf.edu/tid/dfp07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

1 well have decided to try to quit smoking.
2 Whether he could have quit or not without
3 assistance, without therapy, I don't know.
4 MR. CRUSE: Objection.
5 It's nonresponsive.
6 Q Doctor, in this instance, we must have
7 an answer. It would be important to us, as
8 opposed to 90 percent of the other questions we
9 were asking today.
10 Doctor, Sam Allgood, in 1956, given
11 these warnings, would he have wanted to stop
12 smoking and tried to stop smoking? Can you
13 answer that "yes" or "no"?
14 A The question cannot be answered "yes"
15 or "no."
16 Q If this warning had appeared on all
17 packs and ads of cigarettes and tobacco products
18 manufactured by R.J. Reynolds and American
19 Tobacco Company -- Okay? If this warning had
20 appeared on the packs and ads of the American
21 Tobacco Company and the R.J. Reynolds Tobacco
22 Company, and nothing else in the social milieu
23 has changed, would Sam Allgood have started
24 smoking cigarettes, in your opinion, with a
25 professional degree of certainty?

http://legacy.library.ucsf.edu/tid/dfp37a00/pdf Source: tobacco industry documents.ucsf.edu/docs/gjxl0001

A The question is would he have started smoking cigarettes produced by those two companies?

Q No. The question is: Would he have started smoking cigarettes?

A And my response to you is: He may not have started smoking cigarettes produced by those two companies, and he may well have started smoking cigarettes produced by companies that didn't have those labels on it.

Q Now, Doctor, if all the cigarette companies had those labels and advertisements, contained that warning, would Sam Allgood have started smoking?

A He might not have started smoking.

Q And he might have started smoking?

A Yes. There are some data, the best data actually being from other countries, that those do have some deterrent value, if you will, to non-smokers.

Q Doctor, there is also data from this Country that warnings have deterrent value, correct?

A Uh-huh.

Q And there's also data that there are

http://legacy.library.ucsf.edu/tid/dfp07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

1 many millions of people who start smoking every
2 day despite warnings?
3 A That's correct.
4 Q Now, how can you tell which one Sam
5 would fall into?
6 MR. HOLFORD: Objection,
7 Counsel.
8 MR. RILEY: Your objection is
9 on the record.
10 MR. HOLFORD: I need to think
11 of my grounds.
12 MR. RILEY: You've objected
13 to the form.
14 MR. SHEFFLER: I'll withdraw
15 the question.
16 (By Mr. Sheffler)
17 Q Doctor, how do you know Sam would have
18 started smoking or not started smoking if these
19 warnings were present?
20 A Okay. Interestingly -- And in this
21 case, he might well have started smoking; and the
22 basis for saying that is the rather unusual
23 circumstances that his parents actually doled
24 cigarettes out to him.
25 Q So, Doctor, if I can just go one

http://legacy.library.ucsf.edu/tid/dfp07a00/pdf Source: tobacco industry documents ucsf.edu/docs/gjxl0001

step further on this question. Even if all the tobacco companies had put in their ads and on their packs the warning that Mr. Holford prepared, Sam Allgood might well have started smoking?

A That's correct.

Q When you say "might well have," is that with a 51 percent degree of probability?

A I can't give you a percentage on that and you know I can't; but I would suggest to you that under the rather unusual circumstances that are evident in the depositions, notably Lillian Allgood's where she describes in some detail the episode in the garage where he had been caught smoking and thereafter he was told to smoke out in public like a man, presumably like a man like his father, and that therefore, they actually gave him cigarettes, I would imagine that he would have started smoking independent of the labeling.

Q On that note, we're going to take another real quick break; and we may let you go.

(AT THIS TIME A BRIEF RECESS

http://legacy.library.ucsf.edu/tid/dfr07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001

WAS TAKEN, AND THE PROCEEDINGS THEREAFTER RESUMED AS FOLLOWS:)

MR. SHEFFLER: Doctor, as one final housekeeping matter, I would like you to leave all the materials you've brought here for production today, as well as I'd like the reporter to leave the exhibits in this room since we're going to be here for deposition tomorrow. We will endeavor to make copies of whatever materials that we have marked and will give you back all the originals at the conclusion of tomorrow's deposition. Is that agreeable?

THE WITNESS: That's fine.

MR. SHEFFLER: Thank you very much. I appreciate your time. And I pass the witness at this point.

(REPORTER'S NOTE: AT 5:15 P.M. ON FEBRUARY 24, 1994, THE

http://legacy.library.ucsf.edu/ad/dfr07a00/pdf Source: https://www.industrydocuments.ucsf.edu/docs/gjxl0001